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S. HRG. 104–869, VOL. XV

INVESTIGATION OF WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

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SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

ADMINISTERED BY THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

VOLUME XV

ON

THE INQUIRY INTO WHETHER IMPROPER CONDUCT OCCURRED WITH RESPECT TO THE OPERATION, INVESTMENTS, AND ACTIVITIES OF WHITEWATER DEVELOPMENT CORPORATION, MADISON GUARANTY SAVINGS & LOAN, CAPITAL MANAGEMENT SERVICES, AND RELATED MATTERS

JANUARY 26 AND 29; FEBRUARY 2, 5, 6, 7, 8, 9, AND 12, 1996

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

DEPOSITORY
FEB 27 1998

S. HRG. 104–869, VOL. XV

INVESTIGATION OF WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

DEPOSITIONS

BEFORE THE

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

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DEPOSITION OF
ONIE ELIZABETH (BETSEY) WRIGHT
IN RE: S. RES. 120

VOLUME I

FRIDAY, JANUARY 26, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of ONIE ELIZABETH (BETSEY) WRIGHT, called for examination pursuant to notice of deposition, at 9:40 a.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., ESQ.
Majority Chief Counsel
MARK J. BRENNER, ESQ.
Majority Assistant Special Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALAN M. COHEN, ESQ.
PATRICK R. RIZZI, ESQ.
O'Melveny & Myers
Citicorp Center
153 East 53rd Street
New York, NY 10022–4611
On behalf of the Deponent.

ALSO PRESENT: DAVID BOSSIE
DAVID M. LUNA

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Onie Elizabeth (Betsey) Wright

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PROCEEDINGS

MR. GIUFFRA: Good morning, Ms. Wright. My name is Robert Giuffra, chief counsel of the Senate Banking Committee. To my right is Dave Bossie, and further down is Lance Cole, who is a Minority deputy special counsel.

MR. COLE: To my right is David Luna, one of the Minority staff members.

MR. GIUFFRA: This is a deposition that is being conducted pursuant to Senate Resolution 120. Senate Resolution 120 establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, the Arkansas Development Finance Authority and other related matters.

You have been asked to testify in connection with this deposition for possible testimony at a public hearing that the Committee will hold possibly in February and maybe in March, depending on what happens with regard to the

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extension of our resolution.

The procedures for the deposition today are set forth within Senate Resolution 120. I see you have chosen to be represented by counsel, and if Mr. Cohen would note an appearance for the record.

MR. COHEN: Alan Cohen of O'Melveny & Myers, 153 East 53rd Street, 54th floor, New York, New York 10022, and with me is Pat Rizzi of the same law firm but at a different address, 555 13th Street, Washington, D.C.

MR. GIUFFRA: Now, the procedure for the conduct of the deposition, as I indicated, is set forth in the resolution.

Just a couple things. You will be testifying under oath. I will ask you a series of questions and then Mr. Cole will. We will try to complete the deposition as expeditiously as possible.

One concern I have is you may have a lot of involvement in a lot of the matters that are subjects of the resolution. So it is a little unclear how long this may take and whether we will need another

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day, but I will try to go as fast as possible. Then Mr. Cole will get his chance, and then we may go back again for another round.

If at any time today you don't understand a question, let us know. If you need a break, let us know. Your counsel is free to object to questions on the basis of form. If there is an objection based on relevance or privilege, we can either proceed with the deposition or we may seek a ruling on the objection from the Chairman.

The court reporter will prepare a record of the questions and answers. The deposition will be treated as committee confidential until the hearings, meaning that it won't be released to the public.

Prior to the hearings, you will receive a letter from the Committee advising you that you can come to the Senate and review the transcript of your deposition.

If you are called to testify at public hearings, you will be permitted to have a copy of the deposition transcript four days in advance of your testimony, which means we will actually send you a

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copy.

Do you have any questions?

MS. WRIGHT: No.

MR. GIUFFRA: Mr. Cohen, any questions?

MR. COHEN: Only for the record that we regard this as the equivalent of testimony before the Committee and have been subpoenaed to testify before the Committee.

If we ever need to argue about whether a subsequent appearance before the Committee is required, we will do so, but certainly today we are here to give you whatever information you want.

MR. GIUFFRA: Okay. Just to make sure the record is clear, the procedure has been that witnesses come and testify at depositions and then testify at public hearings. There hasn't been a case in which anyone has raised that objection.

Please swear the witness.

Whereupon,

BETSEY WRIGHT

was called as a witness and, having first been duly sworn, was examined and testified as follows:

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MR. GIUFFRA: Ms. Wright, your counsel has provided to me a copy of a resume which we will mark as Deposition Exhibit 1.

(Wright Exhibit 1 identified.)

EXAMINATION

BY MR. GIUFFRA:

Q Have you reviewed this resume before?

A Yes.

Q Is this an accurate setting forth of your background, work history, board memberships and background matter?

A Yes.

Q Ms. Wright, I'm going to show you some documents. Mr. Cohen, we don't identify or mark documents that the Committee has. We identify them by Bates numbers because of the problem of attaching what would be exhibits to the transcript and for confidentiality reasons.

This document bears Bates numbers DKSN 028928 and runs through to DKSN 029043. These are Rose Law Firm client billing records. If you could just take a look at this document.

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A I'm supposed to read it?

Q You can flip through it and see whether you have ever seen this document before.

A I haven't. I have never seen it before.

Q So, it would be your testimony -- maybe -- do you want to take another closer look at this just to be absolutely sure you have never seen it before?

MR. COLE: Perhaps it would be helpful to state the source and a description of the document.

MR. COHEN: I think we could probably from the public media figure that one out.

MR. COLE: I assume you probably could. It is important enough that I didn't want there to be any misunderstanding.

BY MR. GIUFFRA:

Q These were client billing records provided to the Committee on January 5, 1996 by David Kendall, counsel for the President and Mrs. Clinton.

These documents were found in the so-called book room of the White House residence sometime in August 1994, and testimony the Committee has received indicate that at least the computer printout at the

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top was printed out on February 12, '92.
I just wanted to see whether you have ever seen these documents at any time.
A Is there something in here specifically that you think would ring a bell?
Q Why don't I just -- right at the top, we have a computer run listing, basically the Rose Law Firm's payment and billing history with regard to Madison Guaranty Savings & Loan.
Then there are attached to this document a series of Rose Law Firm bills to Madison Guaranty with regard to services the Rose Law Firm provided to Madison Guaranty between 1985 and 1986.
Also included on these bills are some handwritten notations on page 028933. There is a notation which we have learned represents handwriting of Vincent Foster, which says "HRC I believe there was a subsequent bill."
Then there are what we know are billing memoranda of the Rose Law Firm, and it goes through the entire representation. These bills reflect largely the representation of Madison by Rose in '85

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and '86.
MR. COHEN: Your question, has Ms. Wright ever seen these before at any time?
MR. GIUFFRA: At any time.
THE WITNESS: No.
BY MR. GIUFFRA:
Q Ms. Wright, am I correct that you were involved in the 1992 Clinton for President campaign?
A That's correct.
Q And what was your role in connection with that campaign?
A I was the deputy chair.
Q Of the entire campaign?
A Correct.
Q Did you have any role or involvement with regard to what, just for the sake of speeding this up, we will describe as Whitewater-Madison matters?
A Yes.
Q What role did you have during the 1992 campaign with regard to Whitewater-Madison matters?
A Compiling information to respond to press inquiries.

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Q In connection with compiling information to respond to press inquiries, did you seek to obtain documentation with regard to either Madison Guaranty or Whitewater?
A No.
Q Did other personnel of the campaign seek to obtain documentation with regard to either Madison Guaranty or Whitewater?
A Not while I was there.
MR. COHEN: Let me help you. Let me ask a question, because none of this is particularly surprising to anyone. So let me help streamline it.
Ms. Wright, would you tell Mr. Giuffra the date you came to the campaign. It may be helpful in terms of him placing events in context.
THE WITNESS: I came the last week of March.
BY MR. GIUFFRA:
Q And you worked on the campaign through the end, November?
A Correct.
Q Did you have any role with regard to

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anything having to do with Whitewater or Madison between January 1, 1992 and when you arrived at the campaign at the end of March 1992?
A I did not.
Q Did you speak to anyone between January 1, 1992 and when you arrived at the campaign at the end of March 1992 about Madison or Whitewater?
A I did not.
Q You -- no one, for example, asked you any questions trying to ascertain information with regard to what had happened during the 1980s with regard to either Madison or Whitewater?
A They didn't.
Q When I'm describing Madison-Whitewater, I'm trying to describe it in the broad sense as set forth in the resolution. I can go through each of the subjects, if you want.
So no one asked you any questions about Madison or Whitewater in that three-month period?
A No.
Q Do you have any knowledge with regard to anything having to do with the chain of custody of

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the document bearing Bates number DKSN 28928 through DKSN 29043?

A None.

Q Have you ever discussed any Rose Law Firm billing records relating to Madison Guaranty with anyone at any time?

MR. COHEN: Other than your lawyer.

THE WITNESS: No.

BY MR. GIUFFRA:

Q Between December 1980 and January 1990, you were, I would imagine, alternatively chief of staff or campaign manager for Governor Bill Clinton; correct?

A That's correct.

Q Did there come a time in 1985 when you learned that the Rose Law Firm had been retained to represent Madison Guaranty?

A No.

Q When did you first learn that the Rose Law Firm had provided some legal services to Madison Guaranty?

A I don't know.

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Q Did you learn that the Rose Law Firm had provided legal services to Madison Guaranty prior to the 1992 presidential campaign?

A I don't recall knowing about it before then. That's my conscious memory of it. But it isn't out of the realm of possibility that it may have gone past me, information at some other time, but not anything I took particular note of.

Q In what connection do you think you might have learned of the fact that the Rose Law Firm had provided some legal services to Madison Guaranty prior to the 1992 campaign?

A I don't know. I don't know that I did.

Q You just think it is possible --

A My only conscious memory of the fact was in the '92 campaign.

Q Okay. What do you recall learning during the 1992 presidential campaign about the Rose Law Firm's representation of Madison Guaranty during the 1980s?

A What do I recall learning about it?

Q Yes.

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A More than I ever wanted to know or remember. The peg points for my knowledge and understanding were to respond to press questions.

So, it was in compiling the information to respond accurately to press questions or in the preparation of the debate books for the campaign. I think you have all of those, or the kind of press questions we got.

Q Were Q and As about Whitewater or Madison included in Governor Clinton's briefing materials for presidential debates?

A I had some in there, not a whole lot. My responsibilities entailed information about the Arkansas record and about attacks from the opposition. That was one of many items.

Q Maybe it would be useful -- what exactly were your areas of responsibility as deputy chair of the Clinton-Gore campaign between March and November 1992?

A Primarily coordination of information in the Arkansas record in defense of the Clintons in attacks.

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Q Did you have any persons who assisted you in connection with the responsibilities that you had?

A Yes.

Q Who assisted you?

A It depended on what the particular area of inquiry and focus was.

Q With regard to Whitewater, who assisted you?

A It depended on what the particular question or focus was.

Q Why don't you just give us the names of all the people who would have worked with you just in relation to the Clintons' Whitewater investment and then we will go from there.

A On the Whitewater investment?

Q Yes.

A On the investment itself, I don't know that I needed any help because for years I had been including it on the draft disclosure records of the governor's.

Q You had been listing the fact that the Governor had an investment in Whitewater in the

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annual disclosure that he would have to file?
A Yes.
Q Who normally prepared that disclosure form?
A His secretary and I.
Q Who was his secretary?
A Linda Dibson.
Q Were you the person with primary responsibility for filing that disclosure form?
A For preparing it for his signature.
Q Did you have any role in preparing Governor Clinton's disclosure form in connection with the 1992 presidential campaign?
A Tangential only. I had no responsibility for it.
Q What was your tangential role?
A I seem to recall that it had already been filed by the time I joined the campaign -- I don't recall -- and that there may have been subsequent amendments, and I may have been asked whether I had information about subsequent amendments. I have no recollection of what they were at this point.
Q Again, just for purposes -- when you say

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you have no recollection of something, that means you have absolutely no recollection of the event?
A That's correct. I remember having conversations with people about information for amended disclosure forms. I remember checking to make certain that the campaign had all of the prior disclosure forms. That was part of the information I gathered. That's what I mean by "tangential."
Q It is your testimony that you were not involved in preparing the initial disclosure that Governor Clinton would have filed with the Federal Election Commission in the fall of 1991 when he announced his candidacy for President?
A Oh, I was not.
Q Do you know who was involved in preparing that disclosure?
A I do not.
Q Do you know if Mr. Lindsey was involved in that?
A I have no knowledge of that.
Q Based on your knowledge of the campaign responsibilities, who do you think would have been

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the person responsible?
A I had no knowledge of how the campaign was operating at that time.
Q And it is your testimony that some time in the early part of 1992, there was an amendment to the disclosure form?
A I think so.
Q And do you recall whether that amendment had to do with including Whitewater Development Corporation as -- including Whitewater Development Corporation within the disclosure, the fact of this investment?
A No, I don't remember.
Q So, you don't --
A I don't remember what were the issues on the disclosure.
Q You don't recall whether Whitewater was listed as a liability of the Clintons in the 1992 presidential disclosure?
A I don't. No, I don't.
Q Do you recall any conversations with anyone about this amendment to the 1992 -- strike that.

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Do you recall having any discussions with anyone about amending the President's 1992 campaign disclosure form?
A I do remember. I don't remember with whom or what the substance of the amendment discussions were.
Q Going back to your role in handling Arkansas issues and I guess defense of opposition attacks --
A Defense from opposition attacks.
Q Did you work with a man named Jack Palladino?
A Yes.
Q Who is Jack Palladino?
A He is an attorney in San Francisco.
Q Who made the decision to retain Mr. Palladino?
A I don't know that.
Q What were Mr. Palladino's areas of responsibilities in connection with the 1992 --
MR. COLE: Mr. Giuffra, this is not an objection, but before we proceed further along this

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line of questioning, I would like to note that we need to stay within the subject matters set out in Senate Resolution 120.

To the extent Mr. Palladino had responsibilities which are outside the scope of 120, I think it is improper to inquire into those areas in this deposition.

MR. GIUFFRA: I am just getting general responsibilities, not going too far outside the scope of the resolution.

What was the pending question?

MR. COHEN: What were his responsibilities.

BY MR. GIUFFRA:

Q What were Mr. Palladino's areas of responsibility during the campaign?

A When I had more things to pull facts together and get information on than I could handle, I sometimes asked him to pursue information gathering for me.

Q And did he perform any information gathering with regard to Whitewater Development

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Corporation?

A None.

Q Did he perform any information gathering with regard to Madison Guaranty?

A None.

Q Any information gathering with regard to Judge David Hale?

A None.

Q Any information gathering by Mr. Palladino with regard to the Arkansas Development Finance Authority?

A None.

Q Am I correct that Mr. Palladino's activities -- did they relate solely to what has been reported in the media anyway, to allegations involving the President's personal life?

MR. COHEN: Why don't I object to that. Rather than get into what else it was, she has told you it doesn't have anything to do with any of the subject matter of your Resolution 120.

MR. GIUFFRA: I don't think it is going too far beyond the scope, if he -- I'm just trying to

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find out if his areas of responsibility --
BY MR. GIUFFRA:
Q Did his areas of responsibility have anything to do with the Clintons' finances?
A No.
Q So it solely related to things relating to the Governor's personal life?
A No. Most of the things that he looked into had absolutely nothing to do with the Governor.
Q Allegations about the Governor's personal life.
A Allegations, but they were complete falsehoods, as Mr. Bossie knows well.
Q Did you work with Mr. Blair in connection with the 1992 presidential campaign?
A I occasionally did.
Q Did Mr. Blair have any role with Whitewater-Madison matters?
A He did occasionally, yes.
Q What do you recall was Mr. Blair's responsibilities with regard to --
A I don't know.

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Q Do you recall any conversations you had with Mr. Blair during the 1992 campaign?
A None specifically.
Q Do you have any understanding whether Mr. Blair ever spoke to a man named Sam Heuer during the 1992 presidential campaign?
A I didn't know that. I wasn't there contemporaneously with those. I learned subsequently that there had been conversations. I don't think --
I don't think I have had a conversation with Mr. Blair about a conversation he had with Mr. Heuer. Although it would not be out of the realm of possibility that it was --
Q Do you know Mr. Heuer?
A I certainly know who he is. I can't remember whether I have met him.
Q Do you recall ever speaking to Mr. Heuer during the 1992 campaign?
A I didn't.
Q Do you know Jim McDougal?
A I have met him.
Q During the 1992 presidential campaign, did

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you ever speak with Mr. McDougal?
A No.
Q Do you know whether anyone who might be described as an agent, representative, employee of the 1992 presidential campaign, including but not limited to Mr. Blair, spoke to Mr. McDougal during the campaign?
A It is my understanding that they did.
Q Do you know who would have been the persons who would have spoken to Mr. McDougal during the campaign?
A No.
Q Do you know whether Mr. Blair spoke to Mr. McDougal?
A I don't know.
Q Do you know whether Mr. Lindsey spoke to Mr. McDougal?
A I don't know.
Q During the 1992 campaign, did you work with Loretta Lynch?
A I did.
Q What was Loretta Lynch's responsibilities

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during the campaign? What were her responsibilities?
A She helped compile information as needed on subjects.
Q What were the subjects that Ms. Lynch gathered information during the campaign?
A Oh, I couldn't remember that. Obviously I didn't go back and review anything about all the stuff that came up during the campaign.
Q Ms. Wright, in the last month, have you spoken to President Clinton at all?
MR. COHEN: You mean regarding these topics?
MR. GIUFFRA: No. Just anything.
MR. COHEN: What would the relevance under the resolution be to that?
MR. GIUFFRA: The fact of a communication is not getting beyond the subject matter of the resolution. I'm not asking about the substance, just the fact of a communication.
THE WITNESS: No.
BY MR. GIUFFRA:
Q Have you spoken to Mrs. Clinton within the

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last month?
A Yes.
Q And when did you speak to Mrs. Clinton?
A Two or three weeks ago.
Q Did you speak to Mrs. Clinton before the 1st of the year or after the 1st of the year?
A After.
Q Did you speak to Mrs. Clinton when these billing records -- strike that.
Did you speak to Mrs. Clinton about anything having to do with Madison or Whitewater?
A No.
Q Have you spoken to -- it would be your testimony you didn't speak to her at all about the discovery of these billing records or anything having to do with Whitewater or Madison?
A Substantively, no. I had sent her a note just telling her I was sorry about all the new developments and the responses that she was now going to have to go through in dealing with it and wished her well. She just called to thank me for the note. There was no substantive reference.

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Q Did she say anything to you about the discovery of these billing records?
A No.
Q Did she indicate to you she was surprised that the billing records were discovered?
A We didn't discuss it.
Q Have you spoken to anyone presently employed at the White House about the discovery of these billing records?
A I don't think so.
Q So, you haven't spoken to Mr. Lindsey about the discovery?
A No.
Q Do you know Carolyn Huber?
A I do.
Q You haven't spoken to Ms. Huber about the discovery?
A No.
Q Do you know Capricia Marshall?
A I do.
Q You haven't spoken to Ms. Marshall about the discovery of these billing records?

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A I have not.
Q Have you been to the third floor of the White House?
A I have.
Q Have you been in the so-called book room?
A I have not.
Q Have you been in Mrs. Clinton's office on the third floor of the White House?
A No.
Q Have you been to the solarium on the third floor of the White House?
A No.
Q Have you been to the gym on the third floor of the White House?
A No. Let me just add, I have no idea what the names of the rooms are. I haven't been to any rooms that sound like what you just said.
MR. COHEN: You know what the gym would look like.
THE WITNESS: I would know a gym. I know I haven't ever been to any room that you walk through to go to a gym because I have never been to the gym.

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Is the solarium a room that is glass?
BY MR. GIUFFRA:
Q Yes.
A No.
Q Did you work with Mrs. Blair during the 1992 campaign?
A I did.
Q Was she involved with regard to Whitewater or Madison issues?
A Mr. Giuffra, because of the press interest in the subject, there was hardly anybody that didn't touch the receipt of press questions or the preparation of the answers back or the processing of stuff that came in on the subject of Whitewater and Madison.
Q So, all of the senior campaign officials would have been involved in Madison-Whitewater response work?
MR. COLE: When we use the shorthand "Whitewater-Madison matters" which you made reference to earlier in the deposition, does that encompass all of the matters set forth in Resolution

120 or matters related to Whitewater and Madison Guaranty Savings & Loan?

There are things in the resolution that I think most people would regard as having little connection to Whitewater and Madison such as ADFA bond offerings involving Lasater & Company. I want to be clear for the record what is encompassed when we use the shorthand "Whitewater-Madison matters."

MR. GIUFFRA: If you have any objection to this, let me know. I would like to have it encompass everything that is in the resolution with regard to these general questions.

BY MR. GIUFFRA:

Q Are you familiar with the resolution?

A I have read the resolution. I am incapable of making Madison and Whitewater broaden to other subjects. I can't do it. They are too clear in my head.

Q We will just go with Madison and Whitewater --

A Refer to Madison and Whitewater.

Q Whitewater meaning the investment, and

Madison being Madison Guaranty, which was run by Jim McDougal. And the other subjects we will deal with separately.

MR. COLE: So, Ms. Wright, when you responded to his questions, you haven't encompassed in your answer everything else in the resolution?

THE WITNESS: I can't. I am just incapable of it.

MR. COLE: I was afraid there might be some uncertainty as to that.

BY MR. GIUFFRA:

Q You indicated that the majority of the senior staff of the campaign would have worked on Madison-Whitewater response work.

A I don't know about outside of my area.

Q Who was involved in your area?

A Well, the majority of the senior members of the campaign were not in my area.

Q Who was in your area?

A Diane was in my area, of the people you asked me about, and Loretta was.

Q They both reported to you?

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A Correct.
Q Mr. Palladino, he was not involved in the Madison-Whitewater work but involved in your area?
A Correct.
Q Who else was involved in your area?
A I had an awful lot of volunteers.
Q Were there any other paid campaign workers who were involved in your area?
A You know, I don't recall. Mrs. Blair was not paid.
Q Did you work with Mr. Hubbell during the campaign?
A From time to time I did, yes.
Q Did you work with Mr. Hubbell on matters relating to Madison, Whitewater or the Rose Law Firm?
A I probably would have checked any answers I prepared relating to the Rose Law Firm with him for accuracy.
Q Do you recall preparing answers relating to the Rose Law Firm during the 1992 campaign?
A Certainly.
Q Do you recall what the inquiries were about

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in connection with the Rose Law Firm during the 1992 campaign?
A They primarily had to do with Mrs. Clinton's work, with the firm's work on state-related matters.
Q What was your understanding during the 1980s of the extent to which Mrs. Clinton represented private clients before Arkansas state departments, agencies or instrumentalities?
A Practically nonexistent.
MR. COHEN: That's your knowledge that is practically nonexistent?
THE WITNESS: Yes.
BY MR. GIUFFRA:
Q Why do you say "practically nonexistent"?
A The Clintons were exceedingly cautious about even the appearance of conflict of interest. I think it is practically nonexistent.
Now, having said that, my knowledge of -- Mrs. Clinton and I didn't discuss who her clients were or her private law practice. We didn't discuss that.

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Q Did you ever discuss with anyone any concerns with regard to Mrs. Clinton representing private clients before Arkansas state departments, agencies or instrumentalities?
A No.
Q Was that ever a subject that you discussed with the Governor, for example?
A No.
Q Never discussed it with Mrs. Clinton?
A No.
Q When you say that your understanding that the extent of her work, legal work for private clients before Arkansas departments, agencies or instrumentalities was practically nonexistent --
MR. COHEN: It was her knowledge of it that was practically nonexistent, as opposed to the work.
BY MR. GIUFFRA:
Q What work do you know that Mrs. Clinton -- to your knowledge, what work did Mrs. Clinton perform on behalf of private clients before Arkansas state departments, agencies or instrumentalities?
A The only one I'm aware of is the

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interaction with the securities commissioner.
Q And this would be Beverly Bassett Schaffer?
A Correct.
Q That would have been in 1985?
A I don't know the date.
Q Now, were you aware of it at the time?
A I was not.
Q So, you learned of Mrs. Clinton's interaction with the securities commissioner during the 1992 campaign?
A Correct.
Q When it came up as a press question; correct?
A Correct.
Q Did you ever speak to Mrs. Clinton about the extent of her representation of Madison Guaranty before the Arkansas Securities Commission?
A I did.
Q What did Mrs. Clinton tell you about the extent of her representation -- strike that.
In preparing these press inquiries in response -- strike that.

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In preparing press inquiries relating to Madison Guaranty, Whitewater and the Rose Law Firm, you spoke to Mrs. Clinton; correct?

A I spoke to her on anything that involved her.

Q And how frequently did you normally speak to Mrs. Clinton during the campaign?

A I don't know how to answer that.

Q Was she someone you spoke to several times a week? Every day? Once a month?

A It was according to what the flow of --

Q So as much as every day and maybe as little as once a week?

A Probably. I just --

Q Did you have a number of conversations with Mrs. Clinton about Whitewater, Madison and Rose Law Firm-related matters?

MR. COLE: Do we have a time frame for this?

MR. GIUFFRA: During the 1992 campaign.

MR. COLE: Just generally during the campaign?

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MR. GIUFFRA: Yes.

THE WITNESS: We had a number of press questions regarding this. I spoke to her whenever we had those. It was any kind of a new angle or new question that I needed to get verification of accuracy on.

BY MR. GIUFFRA:

Q What did Mrs. Clinton tell you about her representation of Madison Guaranty -- strike that.

What did she tell you during the 1992 campaign about the extent of her representation of Madison during 1985 and '86?

A I don't remember specifically. I would have to have go back to the press questions and answers.

Q Did she say anything to you about the extent to which she performed legal services for Madison?

A I'm certain she did, because some of our press questions were about that.

Q In preparing responses to press inquiries, you would have reviewed those responses with

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Mrs. Clinton before the campaign issued the response?
A Generally, yes.
Q In preparing responses to press inquiries, was it the policy of the Clinton campaign to be accurate?
A I can't speak for the Clinton campaign. I can speak for my section. I know nothing about hardly the rest of it.
Q In responding to press inquiries, was it the practice within your section to be accurate?
A Absolutely.
Q Do you know Beverly Bassett Schaffer?
A I do.
Q In what context do you know Beverly Bassett Schaffer?
A In what context do I know her?
Q How do you know Beverly Bassett Schaffer?
We can use the legal question or the normal person's questioning.
MR. COHEN: Stick with the normal person's questioning.
THE WITNESS: I don't know at what point I

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shifted from knowing of her to knowing her personally. But her family were very major supporters of Governor Clinton's.
BY MR. GIUFFRA:
Q This would be Woody Bassett, her brother?
A And her father.
Q What do you know about her appointment as Arkansas securities commissioner?
A I know that she is who I wanted appointed, and I succeeded, and I was so proud that we had the first ever female securities commissioner.
Q You were one of her strong supporters for that appointment; am I right?
A Absolutely.
Q Was that a matter that you -- strike that.
Was the process of her appointment something that was your responsibility as chief of staff to the Governor?
A I oversaw all appointments, particularly agencies I would be involved with, ones to head agencies or departments.
Q If someone wanted to make a recommendation

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with regard to an appointment, they would have made the recommendation to you?
A No. We had staff who collected recommendations and handled the processing, acknowledgments.
Q Would you have reviewed all the recommendations?
A I always did, yes.
Q So that -- strike that.
If someone who was a friend of the governor or supporter of the governor made a recommendation, that recommendation would have crossed your desk?
A Yes, it would have.
Q In connection with appointments to the Arkansas Securities Commission, and not just the head of the commission itself -- I believe it is a commission, am I right, with members? There is a commissioner and then there is an Arkansas savings and loan board?
A And a cemetery board.
Q And a bank board?
A That is not connected to the commission.

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Q There is also an Arkansas banking committee board?
A Yes.
Q They are separate departments --
A The securities commissioner is not related only to the savings and loan. They also have cemeteries and funeral homes. I forget what all they had. That was only one small part of it.
Q But there is an S&L board?
A That's correct.
Q There is a bank board under the banking department; correct?
A That's correct.
Q The difference is the bank board handles commercial banks and the S&L board handles S&L?
A Yes, state chartered, both state chartered.
Q Madison Guaranty was a state chartered S&L?
A I believe that's true.
Q Do you have any knowledge as to whether -- during the 19 -- strike that.
During the early 1980s, how would you

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characterize the nature of the relationship between Jim McDougal and Governor Clinton?
A They were friends. They were not close personal friends.
Q And Jim McDougal, did he ever work for the Governor?
A He did.
Q Was that in the first term?
A That's correct.
Q What was his position in the first term?
A I don't know that. I was not there then. I seem to recall that it was in an economic development --
Q Assistant to the Governor for economic development, perhaps?
A I don't know. I wasn't there.
Q Then he left after the Governor lost in -- did he lose in '80?
A Yes.
Q Between 1982 and 1986, and by '86, I mean the end of '86, and beginning of '82, did you have contact with Jim McDougal?

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A Some.
Q What was the nature of your contacts with Jim McDougal between January 1, 1982 and December year end of '86?
A I think I ran into him at a Democratic party function when he was running for the Congress. It was just running into him.
Q Did he ever visit the Governor's office?
A I was trying to remember whether he ever did or not. It wouldn't surprise me. I tried very hard to make people who had been on Bill's first staff feel very welcome to come back and visit that office. I just don't recall which ones did and didn't.
Q Do you know whether he ever visited the Governor's mansion?
A I'm sure he did. We always invited former staff to Christmas parties, and I nearly always tried to rotate through them on other special events.
Q But you don't know any particular instances in which Mr. McDougal would have visited the Governor's mansion?

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A I don't recall, but I'm sure he did.
Q Do you know whether Mr. McDougal ever met with the Governor between '82 and '86?
A I believe he did, yes.
Q Do you recall any of those contacts?
A I know from reviewing the records that I'm reminded about one meeting with him regarding septic tanks and the Health Department. That's the only substantive context of a meeting.
I do know that Bill dropped by to see him sometimes when he was jogging by Madison Guaranty. I know one time I saw him was when I went to the fundraiser at Madison Guaranty.
Q That would be the '85 fundraiser?
A Correct. Believe me, that's the only one, the only fundraiser Jim McDougal ever did for Bill Clinton.
Q This was the fundraiser held at the main Madison branch office?
A That's correct.
Q Where was that located?
A On Main Street.

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Q How far was that from the Governor's mansion, if you can give us an approximation?
A I don't know. I never walked it.
Q A half a mile?
A It is probably not even a mile.
Q It is easy jogging distance?
A Oh, absolutely.
Q Did Jim McDougal ever correspond with the Governor or the Governor's office between '82 and '86?
A I can't answer that with certainty, but it wouldn't surprise me if he did.
Q Do you know whether he ever made any recommendations?
A I do know that now, from reconstruction, yes.
Q This would be recommendations to Arkansas boards or for positions?
A I'm aware of two recommendations.
Q What are the two recommendations you are aware of that Mr. McDougal made?
A I am aware that he made a phone call to

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recommend Beverly for the securities commissioner, and I'm aware that he recommended somebody for savings and loan board.

Q That would be Mr. Latham?

A I believe that's correct.

Q Who was the president and CEO of Madison Guaranty; is that correct?

A I believe that's correct.

Q And your knowledge of those -- do you recall anything more about those recommendations that Mr. McDougal made -- strike that.

Do you recall anything more about -- strike that.

What do you recall about Mr. McDougal's recommendation of Ms. Schaffer to be securities commissioner?

A That it was irrelevant and hardly noteworthy at the time because that's the one I wanted. It didn't have anything to do with Jim McDougal.

Q But you do recall him recommending Ms. Schaffer --

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A No, I don't. I took no note of it. I do know from the reconstruction of the files that there is a phone message from him in there saying that, and it had to have gone past me. It was irrelevant. It was not noteworthy.

Q But you don't dispute that he recommended Ms. Schaffer -- I mean Ms. Bassett?

A It appears to me that he did.

Q From looking at the records. But you have no recollection of the recommendation?

A It was an irrelevant recommendation.

Q You say it is irrelevant because you wanted Ms. Bassett to get the job?

A You bet. I was so thrilled with what we were about to do.

Q You have a very clear recollection of her appointment?

A You bet. Any time we broke a barrier by putting the first woman into a position, and here was a very bright attorney who was very smart, got high marks from everybody that we talked to about her, came from a family of long-time friends of Bill

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Clinton's, and she was going to be securities commissioner, and I remember it very distinctly. I could take you through some of the other women I'm real proud of too, if you want me to.

Q Did you ever discuss the appointment of Ms. Schaffer with the Governor?

A Of course. He makes the appointments.

Q Were there any other candidates for securities commissioner?

A Not really. There may have been. There always were, but not -- she was the inside tracker.

Q Sort of a unanimous decision?

A Yes. There may have been other inquiries. There always were for paying positions in government, other requests for consideration. But I honestly don't believe anybody else was under serious consideration.

Q What is the basis for your belief that Mr. McDougal might have recommended someone for the bank board? Again documents?

A Correct.

Q You don't recall any conversations about

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Mr. McDougal's recommendation?

A No.

Q Let's go back to the '92 campaign. You maintained a close friendship with Ms. Bassett from her appointment -- strike that.

A I don't have a close friendship with Ms. Bassett.

Q You met Ms. Bassett in connection with her appointment in '84?

A No. I think I met her before that.

Q She was appointed in '84?

A I don't remember.

Q I think it would be '85, actually.

A I think it may have been sooner.

Q January '85, I think.

A January '85?

Q Yes.

A Mr. Thalheimer stayed that long? Because I remember when he came in and told me he was resigning.

Q There may have been a vacancy for a while.

MR. COHEN: Whatever the date was, we will

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agree with you. Somebody will tie it down with documents or the rest.

BY MR. GIUFFRA:

Q From her taking the position of securities commissioner up to the campaign '92, you had some acquaintanceship with Ms. Bassett; correct?

A I did.

Q What was the nature of your relationship with Ms. Bassett during that period?

A She was the head of one of our agencies.

Q For most of that time up through '91, I believe.

A Well, during the time I was there. I had left by the time she left.

Q Did you used to speak with -- strike that.

While you were chief of staff to the Governor, did you have occasion to speak to Ms. Bassett about official business?

A I believe we usually included her in cabinet meetings, and I might have sometimes if Sam wasn't around. Sam was generally her liaison. And particularly if I had any more of those funeral home

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directors coming in who didn't feel like they were getting proper attention, I would ask her to meet with them and make them feel like they were being responded to.

Q This would be Mr. Sam Bratton?

A Correct.

Q What was his position?

A He was general counsel and a liaison to a number of boards -- to a number of departments, primarily what I called the business-related ones, the Department of Finance and Administration, securities, banking.

Q Prior to the 1992 presidential campaign, did you ever speak with Ms. Schaffer, now Ms. Bassett, about Madison Guaranty?

MR. COLE: Prior to 1985?

MR. GIUFFRA: No. Prior to 1982.

THE WITNESS: I don't know. I don't remember doing so at all.

BY MR. GIUFFRA:

Q Were you aware that Mr. McDougal ran Madison Guaranty?

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A I was.
Q Did there come a time when you learned that the bank was in trouble, to use an ordinary English expression?
A Yes.
Q How did you learn that Madison Guaranty was in trouble?
A In my memory cells, I am trying to separate rumors that were around for a long time. Rumors went around not just about Madison, you understand. We were in a period of great turmoil around savings and loan associations.

So, rumors were not merely about Madison. There were general rumors about all kinds and specific institutions. I was always trying to not act on rumors but act on specific information.

So, I'm not certain I'm able to separate in my brain cells any official information and notices we received from the swirling of rumors about Madison and First South and all of them. There were enormous problems during that period of time.
Q When you say "that period of time," what

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are you referring to?
A In the mid-'80s.
Q Starting in probably about '85-86 or are you talking late '80s?
A I think it was the mid-'80s.
Q The best of your recollection, there were rumors swirling about savings and loans in Arkansas in the mid-'80s?
A Yes. The rumors, I don't know if you are aware of this but bankers and savings and loan executives in Arkansas really didn't like each other. They were always telling stories on each other.
Q I think that is true all over the country.
A I constantly was getting information fed about S&Ls from bankers.
Q And did anyone -- do you recall any rumors about McDougal's operation, Madison Guaranty?
A I don't remember specific ones about specifically Madison.
Q Did you ever discuss difficulties that Arkansas S&Ls were having with Governor Clinton?

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A Oh, yes.
Q So he was aware of the difficulties that Arkansas S&Ls were having?
A Oh, yes, because some of them that were closed, we had considerable state moneys in uninsured, and we would have to go and get the finance board to meet and go into negotiations for the recovery. Yes, we had responsibility in the ramifications of the closure of some of these institutions.
Q Did you ever discuss any difficulties that Madison Guaranty was experiencing with Governor Clinton?
A Probably. I'm sure I did, because Jim had been a staff member, and he was someone he knew and someone he was concerned about. So, I'm certain I did.
Q Do you recall approximately when you might have spoken to Governor Clinton about any difficulties being suffered by Madison Guaranty?
A No.
Q Mid-'80s?

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A Mid to late '80s was when -- I guess it was the late '80s when it all finally fell apart at Madison.
Q Were you aware there came a time when Mr. McDougal was removed as the head of Madison Guaranty Savings & Loan?
A Yes.
Q Do you recall approximately when that was?
A July of '86.
Q Why do you say July of '86?
A I think that is when he was removed. I think we looked it up.
Q You looked it up in preparing for testimony that you have given; correct?
A Yes.
Q Do you recall speaking with Governor Clinton about difficulties that Madison was experiencing prior to July of '86?
A I can't remember specific conversations, and therefore I can't remember specific dates.
Q But you might well have?
A (Witness nodding.)

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Q Would that be a fair --
A Sure.
Q Do you recall ever speaking to Ms. Bassett about Madison prior to July of '86?
A I don't recall.
Q When you say you don't recall, you have no memory of ever speaking to Ms. Bassett about Madison prior to July of '86?
A I don't.
Q Did you ever speak to Mrs. Clinton about Madison prior to July of '86?
A I doubt that I spoke to her about the business. I don't know for certain what I would have spoken to her about on Madison. I'm pretty sure I once made a comment about the art deco decor that they had refinished the building with.
Q This is the headquarters?
A The Madison Guaranty building, yes.
Q Why are you pretty sure you made a comment to her about the decor of the Madison Guaranty headquarters?
A Because I was pretty impressed with it and

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I made comments to people.
Q Do you recall any discussions you might have had with Ms. Bassett about Madison Guaranty during the '92 campaign?
A I don't think I had them. I think other people had conversations with her when we needed.
Q Do you recall who might have spoken to her?
A No. It would just depend on what came up on what day.
Q Do you know whether Mr. Lindsey spoke to Ms. Bassett?
A I don't know.
Q You were aware they were partners in the same law firm; correct?
A No, they weren't.
Q Wasn't she in the Wright, Lindsey firm?
A No. I think she was in the Mitchell firm.
Q First, and now is in the Wright, Lindsey firm. I think that is right, actually. But you have no idea who would have spoken to Ms. Bassett and debriefed her during the campaign?
A Prior to my coming to the campaign, a great

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deal of information had been gathered about Whitewater-Madison.
Q Where were you physically --
A The Gerth story came out before I came to the campaign. Most of this had been gathered either prior to the first Gerth story or in response to the Gerth story in trying to correct it.
There were some basic information documents that I already had to work with when I arrived, including stuff that Beverly had done. I don't recall personally talking to her, but I probably -- if we did have to run something else by her, I may well have had someone else working for me call her.
Q But you may well have spoken to her?
A I may well have.
Q What do you recall Ms. Bassett saying either directly or indirectly about Madison Guaranty during the '92 campaign?
A I don't. I never -- I never attempted to become an expert or knowledgeable about the ins and outs of Madison or Whitewater or any of that. I only worked on trying to put together answers to press

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questions and verify their accuracy.
MR. GIUFFRA: Do you want to confer with your client?
MR. COHEN: He didn't ask that question.
THE WITNESS: But he danced around it a thousand times, so I thought I should tell him.
MR. COHEN: He asked if you talked to her during the campaign.
BY MR. GIUFFRA:
Q Did you recall speaking to Ms. Bassett prior to July of '86 about Madison Guaranty?
A I don't recall.
Q Do you recall ever speaking to Ms. Bassett about Madison Guaranty prior to the '92 campaign? I'm not assuming you spoke to her during the campaign.
A I don't recall the substance of any conversations I ever had with Beverly Bassett in her capacity as securities commissioner.
Q You learned during the 1992 campaign that Mrs. Clinton had spoken to Ms. Schaffer in connection with Madison Guaranty?

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A Yes.
Q What is the extent of your knowledge about any communication Ms. Bassett and Ms. Clinton had about Madison Guaranty?
A What is or was?
Q What were you told about any communications that Mrs. Clinton had with Ms. Bassett about Madison Guaranty?
A I think there was some correspondence we had copies of, very limited.
Q Did Mrs. Clinton indicate to you that she had spoken to Ms. Bassett?
A I don't remember the specific information.
Q Do you recall asking Mrs. Clinton whether she had spoken to Ms. Bassett?
A The problem is a lot of this I know now from all kinds of things. It is hard to separate out what I knew then versus what has been heaped upon me through the media since.
MR. COHEN: To the extent you can, I think it is very important for them to try and compartmentalize, if you can.

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THE WITNESS: I know. It is hard, and it makes my head hurt.
BY MR. GIUFFRA:
Q With regard to when you arrived at the campaign in March of '92, you indicated there were some basic documents in the files about Madison-Whitewater; is that right?
A I don't know where they were. They had been gathered.
Q Where were those documents stored?
A I don't know that.
Q Did you have file cabinets in your office?
A I did.
Q Did you have any locked file cabinets in your office?
A I did.
Q Were all the files that the campaign maintained relating to Arkansas issues, including Whitewater or Madison, maintained within your offices?
MR. COHEN: I'm going to ask you to break that question up, only because she has just said she

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didn't know where some of the stuff was collected.
MR. GIUFFRA: Okay.
MR. COHEN: If you can distinguish stuff she collected from other stuff.
MR. GIUFFRA: I'm happy to. I'm trying to speed it up. Sometimes you hit stuff and you have to go through one by one.
MR. COHEN: Because, for example, it is theoretically possible that some documents such as the ones you asked her about that she hadn't seen before were at the campaign. I have no idea. I want to be careful as to what was in her filing cabinet and what wasn't.
BY MR. GIUFFRA:
Q Let's go through. With regard to Whitewater documents, and by "Whitewater documents," I mean documents related to the Clintons' investment in Whitewater Development Corporation, did the campaign maintain such records when you arrived?
A What kind of documents?
Q Documents relating to the Clintons' investment in Whitewater.

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MR. COHEN: If you want to talk to me, you are entitled to do that.
THE WITNESS: Well, I don't understand.
MR. COHEN: Ask him that.
THE WITNESS: We had a lot of documents in the preparation of press questions and assessments and analyses, et cetera, that we prepared about Whitewater.
BY MR. GIUFFRA:
Q That means your operation?
A Right.
Q You said when you arrived at the campaign in March of '93, a lot of information had been gathered; correct?
A I gather so.
Q So, you show up at the campaign and this information is gathered in some location within the campaign's offices; correct?
A I don't know that it was there.
Q You were advised by someone that this information had been gathered?
A I knew that there were people who had

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reviewed Whitewater documents.
Q Were those Whitewater documents maintained on the premises of the campaign?
A I don't think so.
Q You don't believe they were?
A I honestly don't know. I don't know that I have ever laid eyes on those documents.
Q Have you ever laid eyes on any Whitewater documents -- strike that.
Have you ever laid eyes on any documents relating to the Clintons' investment in Whitewater?
A Created a whole bunch of documents about it in answer to press questions and assessments.
Q In preparing those responses to press inquiries, did you have occasion to look at underlying documents relating to the Clintons' investment in Whitewater?
A I don't think I ever looked at an underlying document.
Q Do you know whether persons working for you ever looked at any underlying Whitewater documents?
A I think that they had prior to my coming.

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Q Okay, but do you know whether such underlying documentation was maintained at the campaign headquarters?
A I do not believe so. I don't know.
Q Were any documents maintained at the campaign headquarters as far as you know that had come from the Rose Law Firm?
A About --
Q About either Madison or Whitewater or the Rose Law Firm.
A Well, sometimes I would get a question about Rose Law Firm and I would ask them if they could give me a list of dates or a list of something or other and they would fax it over to me. I guess that is a Rose Law Firm document.
MR. COHEN: No. That's a copy of a Rose Law Firm document.
BY MR. GIUFFRA:
Q If you got a question about the Rose Law Firm documents, who would you have spoken to?
A It would have depended what the question was about.

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Q Who were some of the people you would have spoken to?
A Web primarily, Carolyn Huber. It depended what the question was about.
Q Vince Foster?
A I might have talked to Vince, but not very much.
Q Primarily you would have spoken to Mr. Hubbell?
A Yes. He was like the managing partner or something like that.
Q Did you ever speak to Bill Kennedy?
A I don't think I did.
Q But as far as you know, because I think the record is a little unclear on this --
MR. COHEN: May I help you?
MR. GIUFFRA: Maybe it is better if I ask Ms. Wright.
BY MR. GIUFFRA:
Q You testified the campaign had gathered some documents related to Whitewater; correct?
A It is my understanding.

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Q And they gathered some documents related to Madison; is that right?
You don't know that?
A I don't know that. I don't know what about Madison.
Q Had they gathered any documents related to the Rose Law Firm when you arrived, as far as you know?
A Well, in what regard about the Rose Law Firm?
Q Anything having to do with the Rose Law Firm.
A Not that that rings a bell with --
Q The one category of documents that you are sure the campaign gathered would be documents relating to the Clintons' investment in Whitewater; correct?
A I'm not sure of anything. I never saw them. It is my understanding that prior to my arrival at the campaign, there were people in the campaign who looked at original Whitewater documents from which some of the assessment that I had to work

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with was made, and I don't know whether those materials stayed in the headquarters, went to Mr. Lyons, went to the CPA that worked for the Clintons. I don't know.

Q So, as far as you know, they were not maintained at the campaign? You just don't know --

MR. COHEN: She doesn't know.

BY MR. GIUFFRA:

Q You just don't know where they were maintained?

A I don't know where they were maintained. I certainly never needed to refer to them in the work that I did.

MR. COHEN: The confusion that has run through the Committee testimony and questioning and that I don't want to perpetuate in this deposition and hopefully will be straightened out as a result of this is the material that she worked on was generated by her for press questions and the rest.

MR. GIUFFRA: Let's get this on the record from Ms. Wright.

BY MR. GIUFFRA:

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Q The documentation that you generated during the campaign was material that was created during the campaign to respond to press inquiries; right?

A Correct.

Q Or to analyze things in connection with responding to press inquiries?

A And for the debate, debate preparation.

Q And in doing the work that was done by your unit, you didn't look at underlying documents. You relied on work that -- other people looked at the underlying documents and gave you derivative materials that you relied on?

A That is correct. Are you disappointed?

Q No. I'm just trying to --

A I read all kinds of interesting stuff I did in the paper.

MR. GIUFFRA: Off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q The underlying documents relating to Whitewater, Madison, Rose Law Firm were not maintained by you at the campaign?

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A No. I don't believe I have ever laid eyes on them.
Q You don't believe you have ever laid eyes on them on any occasion?
A I don't believe so.
Q As far as you know --
A That's not true.
MR. COHEN: I understand --
MR. GIUFFRA: You have laid eyes on them on an occasion. Were they shown to you by someone in connection with an investigation?
MR. COHEN: Or in connection with an investigation she had to look at them. Why don't we first answer your questions and then you can move on to this. You won't lose this. I have a big mark and so do you.
BY MR. GIUFFRA:
Q When have you seen underlying documents that relate to Whitewater or Madison?
A When I went to Arkansas in early '94 to try to compile a bunch of records I needed for other stuff, I located a box that when I opened it up was

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Whitewater documents, and I brought it back to D.C. and gave it to Mr. Kendall. That's the underlying.
MR. COHEN: Now that you have the answer to that, could we make sure your record is clear in one or two questions you can ask or I can ask, that in the period up through the end of the campaign, prior to 1994, she did not, had not seen underlying Whitewater documents.
MR. GIUFFRA: You can answer that question.
BY MR. GIUFFRA:
Q Is that correct?
A That's correct.
MR. COHEN: And that the files she maintained in her files in her area were derivative materials used in responding to the press and debate prep.
THE WITNESS: That's correct.
BY MR. GIUFFRA:
Q You don't know where any underlying documents were maintained relating to Madison or Whitewater?

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A I don't.
Q Your best guess would be that maybe Mr. Lyons had them or Ms. Redden had them, or you don't know whether that is true?
A They may have been in one of the file cabinets in my section. I don't know where they were.
Q You know they weren't there?
A I never worked with them. That's as far as I know.
Q Do you know whether anybody else who worked in your section or at the campaign ever worked with the underlying documents?
A I do know that they had prior to my arrival.
Q After your arrival, as far as you know, no one was working with underlying Whitewater documents?
A That's correct.
Q Or Madison Guaranty documents?
A That's correct.
Q Or Rose Law Firm documents?
A I don't even know what Rose Law Firm

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documents --
Q For example, billing records like these that were discovered at the White House residence.
A We never had time for reading stuff like that.
Q In early 1994, there came a time when you went back to Arkansas and located a box of Whitewater documents that you gave to Mr. Kendall; correct?
A Correct.
Q What were the circumstances under which you went back to Arkansas to look for documents?
A I was trying to pull together -- we kept getting the -- the White House and I kept getting press questions about some campaign finance questions, and I really don't like talking from memory. I like talking from facts. So, I went to Arkansas to pull together the documents and bring them to D.C. so that they were here for more handy, ready reference.
In the process, I found this small box (indicating).
Q First question, issues that had arisen with

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regard to campaign finance, those related to campaign funding or fundraising activities of the campaign during the 1992 campaign?

A I'm sorry.

Q That was a badly phrased question.

The issues that had arisen with regard to campaign -- the Clinton campaign finance issues, what did they relate to?

A Questions about things regarding -- there seems to be no end to the kinds of things people can think up to ask.

MR. COLE: I'm confused whether we are talking about presidential campaign finance issues or prior gubernatorial.

THE WITNESS: Just gubernatorial campaign.

BY MR. GIUFFRA:

Q So, you went back -- I was a little confused on that as well.

In early 1994, when you went back to Arkansas to look for campaign records, the campaign records related to prior gubernatorial campaigns?

A Correct.

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Q Not the presidential campaign?

A Correct.

Q Do you recall specifically what campaigns you were looking for the records for?

A All of them.

Q Who asked you to go and look for the campaign records?

A Nobody.

Q You did it on your own accord?

A You bet. I was tired of having to remember stuff I couldn't remember.

Q You were the document custodian of the documents for the gubernatorial campaign?

A No. I am now.

Q So, you basically -- why were you the person getting the press inquiries? Because you have been the campaign manager?

A Correct.

MR. COHEN: You will have to ask the press that.

BY MR. GIUFFRA:

Q Now, where were these files maintained in

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Arkansas?
A They were in a storage room in Little Rock.
Q Do you remember the name of the storage facility?
A No.
Q Was it in a trailer -- do you recall anything about the storage facility? Location? Name? What part of Little Rock?
A I don't. I don't remember. It was just a storage place.
Q Was this a storage facility the campaign rented?
A I don't know who rented it technically, because I think the campaign didn't exist anymore in '94.
Q You don't know who would have paid the rent on it? Was it a place you had to rent space?
A Right.
Q You don't remember where it was?
A It was in an industrial park area. I remember that. I'm trying to remember where I drove

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from and to. I just don't remember. It wasn't a part of town I had ever been to before. I didn't know that stuff was out there.
Q Did the campaign have a bin in a warehouse facility or was this a self-contained unit that was sort of outside, a bunch of units?
A No. There weren't units.
Q It was a bin -- did you have like a location within a floor of a building, for example?
A A floor of a building?
Q Did you have like a storage cubicle within a building with a series of storage cubicles?
A No, no.
Q Did you have a file cabinet? Did you have a couple of rooms?
A I don't know where they were.
Q What sort of documents were stored at this facility?
A The ones that I am aware of are the Clinton gubernatorial papers, attorney general papers, campaign papers, all the stuff I collected for the campaign.

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Q And would that also include presidential campaign materials?
A Probably.
Q So basically all Bill Clinton's papers, campaign and official papers would have been maintained in this facility?
A Correct.
Q And you don't know where the facility -- does he still have the facility? Are the papers still maintained at this facility?
A I assume. I don't know. I have no connection.
Q Is there any way you can find out where the facility was located?
A Sure.
Q We might want to try to get that information if we can.
Was this a rather large -- was it a room with a bunch of file cabinets in it?
A No. Papers were in storage boxes.
Q Just a series of storage boxes. I would think there would have been a lot of storage boxes if

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it reflected his entire period that he was governor.
A That's correct.
Q And there were also files -- the files you created during the '92 campaign were put in this facility, correct, after the campaign?
A With a couple of exceptions, yes.
Q Did you bring the documents to this facility?
A No, I did not.
Q Did you direct someone to bring the documents to the facility?
A No, I did not.
Q They just were brought there and you don't really know how they got there; is that right?
A I don't.
Q You don't know how the documents got from your file cabinets at the campaign to the storage facility?
A When the campaign was over, we left our stuff so that they could take it and store it.
Q When you say there were a couple of exceptions with regard to your documents that you

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had, what were the exceptions?
A I took some of the files from my office from the headquarters just so they didn't get mixed in with general storage until more order was in place.
Q What were the documents that you kept?
A They were things that I thought either were very, very personal to the Clintons, were items that they likely would hear of again or were fairly inflammatory kinds of files, just an assortment.
Q Approximately how many boxes?
A 10.
Q And you know for sure it is 10 boxes?
A No. You asked me approximately. I think it was approximately 10.
Q Did you have those boxes shipped to Washington?
A No.
Q What happened to those boxes?
A I took them to my house in Little Rock.
Q For how long did they stay at your house in Little Rock?

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A Oh, several weeks.
Q Then where did they go?
A I took them to Web Hubbell at the Rose Law Firm.
Q All 10 boxes?
A No. I kept one.
Q What was the box you kept?
A Oh, it was some information that had been given to me by an idiot who is now suing me. Until the lawsuit was over, I was hanging on to the idiot's papers.
MR. COHEN: And no, it doesn't have anything to do with Whitewater, Madison or anything in the resolution.
BY MR. GIUFFRA:
Q Was it a campaign matter?
A No.
Q It was your own personal business?
A It was another one of the fabrications.
Q Someone was making allegations about you personally that you maintained a box of stuff on?
A No. It was stuff I had collected during

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the campaign when he would drop by and leave it off and stuff like that. Listen, it was dismissed. It is gone. I still just have the box, though.

Q What was the lawsuit about?

MR. COHEN: What was the caption of the lawsuit?

THE WITNESS: I don't know. How do you describe it? This person is not mentally stable.

MR. COHEN: What is the person's name?

THE WITNESS: His name is Larry Case. Mr. Bossie knows him well.

MR. COHEN: Suffice it to say it has nothing to do with these areas.

BY MR. GIUFFRA:

Q All right. So this 10 boxes of documents, you keep one box, approximately one box, you bring nine boxes over to Web Hubbell. This is probably about November, mid-November --

A No.

Q Later?

A It was probably January.

Q January 1993?

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A Correct.

Q And within those boxes are things, personal matters of the Clintons. Are these personal files like passport, birth certificate, financial records, Visa bills?

A I don't believe I have any of their financial records.

Q Just in general terms.

A I found a number of letters that had been written to Bill when he was an undergraduate and when he was in law school and when he was at Oxford. They were just personal letters from school chums that I felt he should decide where they ultimately lived, not just be lost in a storage facility.

Q The inflammatory stuff relates to allegations about the Governor's personal life, or is that Whitewater stuff as well? I want to try to get a sense of the Web Hubbell files.

A It didn't relate to the Governor's personal life. It related to lies about the Governor's personal life. I had done some research on his father, just that kind. I had birth certificate,

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marriage certificate, employment records, transcripts.

Q Within the category of documents matters you are likely to hear from again, did that encompass Whitewater-Madison documents?

A Yes, the press questions.

MR. COHEN: Not underlying documents, but the derivative work on that subject.

BY MR. GIUFFRA:

Q The boxes that you gave to Hubbell as they related to Madison or Whitewater were the derivative work product that you had prepared during the campaign?

A Correct.

Q There were no underlying Whitewater documents within those documents?

A I don't believe so.

Q Were these documents that you had -- were these materials you had prepared or did it also include the materials prepared by Ms. Lynch and other people in your unit?

A The latter.

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Q It included materials prepared by other people in your unit, correct, and yourself?

A Correct.

Q Those boxes went over to Mr. Hubbell in approximately January of '93?

A Correct.

Q Who asked you to bring them to Mr. Hubbell?

A Mr. Hubbell.

Q Did Mr. Hubbell say he was acting at anyone's direction?

A No. He just said he was supposed to get the boxes from me.

Q Did he indicate to you in any way that Mrs. Clinton had asked him to collect these boxes?

A No.

Q Did he indicate to you in any way that the Governor had asked him to gather these boxes?

A No.

Q You have no indication as to why. He just took it upon himself to collect these boxes?

A No. He was working in the transition. There were people whose job it was to get them moved

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and get their personal effects together and get things shut down. Believe me, Bill and Hillary weren't worried about where boxes were.

Q You had maintained these boxes at your house in Little Rock?

A Correct.

Q For about two months?

A Correct.

Q Then, what, did Mr. Hubbell come pick them up?

A No. I took them to him.

Q You drove them to his house?

A No. To the Rose Law Firm.

Q Did you deliver them directly to Mr. Hubbell?

A I did.

Q He took them from you?

A That's correct.

Q Do you know anything more about these boxes of documents, what happened to these boxes of documents?

A At some point Mr. Kendall had them, got

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them, because then they were available for me to look stuff up in answer to -- I was still getting a lot of press questions. The White House would call and ask me questions.

Q The documents went from you to Mr. Hubbell to Mr. Kendall; is that correct?

A All I know is they went from me to Mr. Hubbell. Then I know that Mr. Kendall had them. I know nothing about the interim time.

Q You know nothing about the time between when they went to Mr. Hubbell and to Mr. Kendall?

A No.

Q When approximately did the documents make their way to Mr. Kendall? When is the first you were aware that Mr. Kendall had possession of these boxes? Late '93, early '94?

A It was in '93. I quite frankly don't remember when Mr. Kendall --

Q He wasn't retained until the latter part of '93, I believe approximately late October, November.

A It would have been when he came on board.

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Q Approximately that time you were contacted by Mr. Kendall and you went and looked at some documents over at his office; is that right?
MR. COHEN: Do you know who contacted whom?
MR. GIUFFRA: Any time you want to interrupt with a clarifying question, it is fine with me. I have no problem.
MR. COHEN: Without regard to who called whom, do you remember when it was?
THE WITNESS: I don't.
BY MR. GIUFFRA:
Q Did Mr. Kendall or anyone working for Mr. Kendall indicate these were the boxes we obtained that were apparently your boxes from the campaign?
A I'm sorry?
Q Did you -- were the boxes when you saw them in Kendall's office at Williams & Connolly, were the documents still in the boxes?
A Absolutely.
Q Did you look through the boxes?
A I did.

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Q And did Mr. Kendall indicate to you from whom he had received the boxes, or anyone working for Mr. Kendall?
A No.
Q So, no one told you whether they had gotten the boxes from Hubbell or anyone else?
A No. I learned from newspaper accounts that they had been at Web's house when Web testified.
Q At Web's house in Washington?
A Uh-huh.
Q Your knowledge with regard to that is solely based on news accounts?
A Newspaper reports, yes.
Q Did you -- when you looked at the boxes of documents in late 1993 at Williams & Connolly, did you attempt to ascertain whether any files had been removed from those boxes?
A I don't even know how I would have done that.
Q You looked through the boxes of documents; correct?
A That's correct.

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Q Did it appear to be that the documents as they were sitting in the files were about how you left them?
A Yes.
Q And you are quite certain that when you had the documents during the campaign, there were no underlying Whitewater or Madison documents?
A Yes.
Q So, you don't recall seeing any client files of the Rose Law Firm relating to Madison Guaranty?
A No.
Q And you think that is the kind of thing you would have remembered seeing; correct?
A I think I would have thought it wasn't the kind of thing I should be seeing.
Q You would have remembered -- had a file -- let me rephrase the question.
If there had been client files of the Rose Law Firm relating to Madison in your campaign files, you think you would have probably remembered that; correct?

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A I think so.
Q And it would be your view you probably shouldn't have had that stuff over at the campaign? I'm asking for your state of mind. You think you probably wouldn't have wanted to have that stuff?
A If they were Rose Law Firm files, they would need to go back to the Rose Law Firm.
Q In early 1994 -- you don't recall why you went back to the storage facility yourself, do you?
A Sure, I do.
Q It was to respond to press inquiries?
A Because I was tired of not having the facts at hand to answer.
Q You don't recall who asked you to go back other than it was a decision on your own?
A I did make the decision on my own.
Q You went back to the storage facility and looked through some boxes and located campaign finance records related to the gubernatorial campaigns?
A Correct.
Q What other kinds of documents did you come

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upon?
A What kind of documents did I come upon?
Q Were there other types of documents you were looking for?
A No.
Q You were just looking for the fund --
A The finance records.
Q Of the gubernatorial campaigns.
In the course of looking through those records, you came upon a box of Whitewater documents; correct?
A That's correct.
Q And what was in that box of Whitewater documents?
A I don't remember. Like bank statements or something.
Q Did you look inside the box?
A I did.
Q You just recall seeing bank statements?
A Yes, because I would have picked it up to see which gubernatorial campaign it was, and it said Whitewater something or another.

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Q Was it a bank record or was it an article of incorporation of a company?
A It looked to me like bank statements or something like that.
Q Were there any checks in there?
A I think so. I think it was a box of bank statements. I didn't go through it. Once I determined it was Whitewater documents --
Q What did you do with it?
A I gave them to Mr. Kendall.
Q Did you bring them back to Washington?
A I did.
Q You gave them to Mr. Kendall and that's the last you know about that box?
A That's correct.
Q You don't know whether there were any other boxes containing Whitewater or Madison documents in the storage facility?
A No, but you see, I had them pull just the boxes I thought were the most likely to have what I was looking for in them.
Q Was there an index of the boxes that were

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stored at the storage facility?
A Yes, sort of.
Q What do you mean by "yes, sort of"?
A Well, it was a lousy index.
Q Was there a full-time employee maintaining these files?
A Not maintaining the files. There were people who worked for the storage facility.
Q But they were the only ones responsible for the handling of these files, as far as you know? There wasn't a former gubernatorial staffer or some volunteer or presidential employee who was maintaining these documents?
A There was an employee of that Little Rock office, for the DNC Little Rock office who went with me there and was with me.
Q There is a DNC office in Little Rock; correct?
A Correct.
Q An employee of that office brought you to the storage facility?
A Correct.

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Q Do you remember the name of the person?
A Becky Vincent.
Q Who is Becky Vincent?
A I don't know.
Q She was the person who took you there and seemed to be responsible for the documents that were maintained in this facility?
A Well, she worked for the people responsible for them.
MR. GIUFFRA: Want to take a break here for a second?
MR. COLE: Before we leave this line of questioning, have we established the time in 1994 of this trip to Little Rock as best we can?
MR. GIUFFRA: I think she said January '94.
MR. COLE: January '94?
BY MR. GIUFFRA:
Q Is that right, Ms. Wright?
A That's correct.
Q Do you know anything more than you testified about about the process by which

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Whitewater-Madison documents were gathered during the '92 campaign prior to your arrival?
A No.
Q And you don't know who was involved in gathering the documents; correct?
A Not really.
Q Do you think Mr. Hubbell was probably involved?
A I don't know.
MR. COHEN: Don't guess. If you know.
BY MR. GIUFFRA:
Q You don't know at all?
A I wasn't there.
Q Was Ms. Thomases working at the campaign when you arrived?
A No, I don't think she came on full time on the staff until much later. But she came in and out of the headquarters.
Q As far as you know, Ms. Thomases had a role responding to press inquiries relating to Whitewater or Madison?
A Not while I was there.

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Q So you basically were in charge of that function?
A Correct.
Q Do you know whether prior to your arrival, Ms. Thomases played any role in responding to press inquiries relating to Whitewater or Madison?
A I think I did know that.
Q What did you know about that?
A That's it.
Q That's the extent of your knowledge.
How about -- you know Mr. Lyons had a role; correct?
A Correct.
Q And do you know whether Mr. Foster had any role with regard to responding to press inquiries?
A I do not know.
Q When you took over the function, did you ever have any dealings with Mr. Foster or Mr. Hubbell with regard to Whitewater-Madison? Strike that.
I believe you testified you had some dealings with Mr. Hubbell; correct?
A I may have with Vince, but I don't

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remember.
Q Definitely Hubbell, maybe Foster, in responding to these press inquiries.
MR. COLE: I believe her testimony was that was with regard to the press inquiries involving the Rose Law Firm as opposed to more general or Whitewater specifically.
THE WITNESS: Correct.
BY MR. GIUFFRA:
Q The press inquiries would have related to Madison?
A No, not necessarily.
Q It would have been Rose Law Firm generally.
MR. COHEN: But it is also correct that some of the Madison inquiries may have related to the Rose Law Firm's role in representation of Madison, so that the overlap is there.
THE WITNESS: Correct.
BY MR. GIUFFRA:
Q Did a man named Roger Martin have any role?
A Yes.

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Q Who was Roger Martin?
A He was on my staff and division.
Q What did he do?
A Whatever we needed doing he did. Analysis, research, pulling stuff together.
Q What is his background?
A I had known him -- I had hired him one summer as an intern in the Governor's office. I believe I had helped him get a subsequent job after he got out of college.
He had been a student of Diane Blair's. We were both very fond of him. He was there when I arrived. Diane had recruited him.
Then when we set up the war room in the general election, he was my division's person in the war room.
Q What do you mean by "division's person"? Your division meaning your area?
A The Arkansas record folks.
Q Prior to your arrival at the campaign, who was in charge of handling Arkansas records issues?
A I don't know. I think it was very

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haphazard.
Q Did Ms. Blair have a role?
A She did.
Q Prior to your arrival and after your arrival?
A Oh, most definitely.
Q How about somebody by the name of Kevin O'Keefe?
A Kevin had a role, not in anything related to Whitewater or Madison that I recall.
Q Did he work for you?
A Oh, he wasn't full time on the staff.
Q What is Mr. Martin doing right now?
A I think he is in law school, and he works part-time, I think -- I'm not positive -- I know he works sometimes at the DNC Little Rock office.
Q Mr. O'Keefe, what was his role in the campaign? Did he work for you?
A No, he didn't.
Q Do you know what part he worked for?
A I don't think he was on the staff of the campaign.

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Q He was a volunteer?
A He just came in and out as an adviser.
Q Is he a lawyer?
A Yes.
Q Do you know what firm he works at?
A I think he works at the White House now.
Q Do you know what his role is at the White House?
A No.
Q Did he have any responsibility in any way related to Madison or Whitewater?
A No.
Q And you are confident of that.
Mr. Siegel --
MR. COHEN: I take it it is not to your knowledge.
THE WITNESS: Not while I was there.
BY MR. GIUFFRA:
Q Mr. Eli Siegel, do you know him?
A Yes.
Q Did he work for you?
A No.

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Q What was his role during the campaign?
A In the general election, he was -- I forget what his title was, but he was there full time in Little Rock on the campaign.
Q I just want to be clear on one thing. With regard to the document collection, you didn't have any role with regard to collecting documents relating to Madison or Whitewater; correct?
A No.
MR. COHEN: Underlying records.
MR. GIUFFRA: Yes, let's focus on that.
BY MR. GIUFFRA:
Q As far as you know, you didn't maintain underlying Whitewater or Madison or Rose Law Firm records during the campaign?
A That's correct.
Q And the documents that you gave to Mr. Hubbell would not have included underlying Whitewater, Madison or Rose Law Firm files?
A That's correct.
Q Now -- and you never collected any files of any sort from the Rose Law Firm during the time you

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were on the campaign; right?
A Not Rose Law Firm files. I might have collected something of Hillary's that she kept at the Rose Law Firm, but not Rose Law Firm files.
Q Or Whitewater-Madison documents?
A Correct.
Q Did you collect any information regarding Mr. Dan Lasater during the campaign?
A I think I have a lifetime of collecting information about Mr. Dan Lasater.
MR. COLE: Do you think this would be an appropriate time to take a break before we start into a new inquiry, at least a bathroom break?
MR. GIUFFRA: If you want to take one, that's fine.
(Recess.)
BY MR. GIUFFRA:
Q Ms. Wright, when I use the term "Madison-Whitewater," does that also encompass -- off the record.
(Pause.)
BY MR. GIUFFRA:

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Q When I use the term "Madison," that also encompasses the 1985 fundraiser? I don't want to have to go back through all these questions about who had the documents and who didn't have the documents.
A No, it doesn't. Madison Guaranty was a business.
Q Did you maintain underlying documents at the campaign relating to the '85 fundraiser?
A I did.
Q What underlying documents did you maintain at the campaign related to the '85 fundraiser?
A The copies of the deposits of the checks, the thank you letters, the schedule and information about it.
Q And those documents were at the end of the campaign brought over to the storage facility?
A Yes.
Q Were those documents contained within the 10 boxes that you kept?
A No.
Q You just brought them right over to the storage facility?

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A Right.
Q Let me ask you a question. Did the Clinton gubernatorial campaigns maintain computer files of fundraising activities, givers?
A Not per se. We maintained computer files of givers, yes.
Q Did you have a computer disk containing givers?
A I don't know if it was a disk.
Q But it was some sort of computer record?
A Correct.
Q Would that have been for most of the campaigns throughout the '80s?
A Yes.
Q Do those computer records still exist?
A I don't know.
Q When was the last time you saw those computer records?
A During the '92 campaign.
Q So, do you recall whether this was a big disk, a floppy disk, a hard disk?
A I don't know about the disk.

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Q But they were definitely in computer format?
A Yes. I could type on my terminal and get them. I did a lot of input of contributors in between campaigns and stuff.
Q That information was maintained on the 1992 Clinton presidential campaign computer system?
A I don't know that it was.
Q Was it maintained --
A I had access to that database.
Q Was that database maintained on your computer at the campaign?
A I could look at it from my terminal at the campaign.
Q Do you know whether other people could look at that at their terminals?
A I don't know whether everybody could.
Q Could other people? Could Ms. Blair, for example?
A I don't remember. Probably. There wouldn't have been any reason for her not to.
Q You don't know what happened to the

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information that was maintained on that computer database?
A I don't.
Q As far as you know, it is still in existence?
A I have no idea.
Q Might that computer database be maintained by the RNC office in Little Rock?
A It is not the RNC. You have been very courteous so far.
Q DNC. I'm sorry.
When you talk about Madison documents, does that also include any underlying documents relating to Jim McDougal?
A There might be Jim McDougal information that was separate from Madison.
Q Would you have -- when you said you didn't collect any underlying or store any underlying Madison or Whitewater documents, might you have collected or stored any underlying Jim McDougal documents during the '92 campaign?
A Insofar as Jim McDougal would have showed

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up in any of the records in the Governor's papers, Governor's office, I had them at the campaign. Did I have a Jim McDougal file that I compiled them all in?

This is one of those questions I'm telling him how he should ask.

MR. COHEN: Just clarify it for him and answer.

BY MR. GIUFFRA:

Q You have probably been asked these questions 25 times.

A No. Most of the people who are interested in Jim McDougal are in this room.

I didn't collect and gather up McDougal information.

Q Did you have a Jim McDougal file that you maintained at the campaign? Did anyone have a Jim McDougal file that they maintained at the campaign?

A Not that I recall.

MR. COHEN: You can't shake your head. She needs an audible response.

THE WITNESS: She can see me.

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MR. GIUFFRA: He is correct.

BY MR. GIUFFRA:

Q Did you maintain a Dan Lasater file during the campaign?

A I collected -- I pulled together Dan Lasater information.

Q What sort of information did you pull together about Dan Lasater?

A Because he had been used against us in previous campaigns, I pulled together everything I could think of that if I were running against Bill Clinton I would hit him with. Actually, when I arrived at the campaign was when an LA Times story about Mr. Lasater hit. So I was moving quickly.

Q With regard to Mr. Lasater, there was a point in time when he was a friend of the governor's?

A I don't know that they were ever personal and social friends. But they were definitely acquaintances.

Q Governor Clinton, for example, did he ever use Mr. Lasater's airplane?

A I believe I lined it up a couple of times.

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Q Did he ever visit Mr. Lasater's home?
A Yes, I think so.
Q Do you recall when that was?
A No. There was some open house or fundraiser for some politician going on there.
Q At Lasater's home?
A Yes.
Q There was a relationship between Roger Clinton and Dan Lasater; correct?
Yes, you are nodding?
A Correct.
Q Roger Clinton worked for Dan Lasater?
A Briefly.
Q Do you recall when that was approximately?
A I don't.
Q Was the Governor aware of the fact that Roger worked for Dan Lasater?
A Oh, yes.
Q And did the Governor play any role in getting Roger the job with Dan Lasater as far as you know?
A I don't know.

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Q You would assume so?
A No. I mean, I have read stuff. I think this may have been before I moved to Arkansas, but I'm not positive.
Q Do you think this might have been in the '78 to '80 period?
A Yes.
Q Did Mr. Lasater ever visit the Governor's office while you were there?
A I don't recall.
Q Do you recall whether he ever visited the Governor's mansion?
A We invited him to Christmas receptions and stuff like that. I don't remember if he went. But he would have been on invitation lists.
Q Why would he have been on invitation lists?
A As a supporter, a contributor, a business leader.
Q Did you maintain any files relating to the Arkansas Finance Development Authority during the '92 campaign?
A I collected a lot of information. Again,

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this was an issue that had come up before.
MR. COHEN: Can we again in this area, for understandability of the record, distinguish between underlying documents and derivative documents for response to the press and campaign prep purposes.
BY MR. GIUFFRA:
Q Did you collect any underlying documents relating to ADFA during the '92 campaign?
A What is an underlying document related to ADFA?
MR. COHEN: When I use the term, so it is clear, it is an original document like a transaction document, for example, original minutes.
THE WITNESS: Not originals. I collected copies of a number of ADFA documents.
BY MR. GIUFFRA:
Q A copy -- let's make sure we are clear about this. This goes back to the other answers you gave.
A copy of a bond offering document, okay, would you deem that to be an original document as opposed to a newspaper article or something that you

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prepared that was derivative of original documents; is that a fair distinction? Yes?
A Yes.
Q When we talk about underlying Whitewater or Madison documents, you were not referring to copies of underlying documents?
A I didn't have copies of underlying documents either.
Q All the documents you had were derivative documents, e.g., for example, newspaper articles, internal campaign memos, statements from people about Whitewater or Madison?
A With one -- I think I might have had a copy of the First Lady's letter to the securities commissioner.
Q That would be an underlying document.
A I think I probably had a copy of that. That's the only thing I can think of.
Q Is that the first time you saw that letter, was during the campaign?
A I believe so.
Q When you were chief of staff to the

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Governor, did you have any contact with Dan Lasater or anyone from his firm in connection with any bond offerings of either ADFA or the state police department?

A Yes.

Q What was the nature of your contacts with Mr. Lasater or agents of Mr. Lasater with regard to bond offerings?

A They, like most companies, didn't feel like they were getting enough consideration.

Q So, they would complain to you?

A Yes, they, like most of the companies.

Q That would be the Arkansas companies?

A Well, primary Stephens, Inc. and Lasater. It is sort of like bankers and S&Lers.

Q Were they the two big firms that did the bond underwriting work?

A No.

Q They were the two big complainers?

A Yes. They would complain about each other. They didn't like each other.

Q What was the frequency of your contacts

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with either Mr. Lasater or any agent of Mr. Lasater with regard to bond offerings of either ADFA or the state police department?

A Probably not more than a couple contacts.

Q Over the entire time you were the chief of staff?

A Yes, two or three times.

Q Two or three times. Do you recall anything specifically about those complaints?

A They just didn't feel like they ever got included properly, fairly. You know, I wouldn't have been discussing about a specific bond proposal. It would have just been whether they felt like they were getting enough business or not.

Q Did you ever discuss whether Dan Lasater or his firm was getting enough business, bond business, with Governor Clinton?

A Ask me that again.

Q Did you ever discuss with Governor Clinton whether the Lasater firm or Mr. Lasater were receiving sufficient bond work from the state of Arkansas or its agencies and instrumentalities?

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A I still don't understand what you are asking. You are asking me if I talked to Bill Clinton about something. I don't know what it is you are asking if I talked about.

MR. COHEN: How about Lasater's complaints.

BY MR. GIUFFRA:

Q Did you ever discuss Lasater's complaints with Governor Clinton?

A I'm sure I told him if somebody had complained again, but I wouldn't --

Q You don't remember or you do remember? You think you did speak to Governor Clinton about Lasater's complaints?

A I don't know that I spoke to him. I probably just said they are upset again or something.

Q Do you recall any responses that the Governor might have made when you told him of Lasater's complaint?

A I wouldn't need a response. Part of my world was trying to help people in all agencies of

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government feel that they were being treated with dignity and responsively, and so it is just a matter of be careful, you are hurting feelings, or something like that.

Q Did Governor Clinton ever indicate to you that bond work should be given to Mr. Lasater or his firm?

A No, not specifically.

Q Did he generally indicate that bond work --

A No. Our policy was that it would be an inclusive, open and competitive process, unlike the predecessor.

Q Did you ever discuss with Governor Clinton the giving of bond work to Mr. Lasater or his firm?

A I might have informed him who had been selected by ADFA on a given deal or something.

Q Did he ever indicate to you that he would have had a preference with regard to who would receive bond work?

A Not at all. His preference was that there would be no monopolies and it would be open and inclusive and competitive.

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Q The fact that someone was a campaign contributor or supporter was not to be a factor; is that right?
A No.
Q Was it ever a factor in connection with your awarding of bond work?
A No.
Q Do you know anything about whether any underlying documents relating to Whitewater have ever been destroyed?
A I don't know of any.
Q Do you know of -- do you know whether any underlying documents relating to Madison have ever been destroyed?
A I don't know of any.
Q During the campaign or afterwards.
A I don't know of any.
MR. COHEN: Just so you don't ask it later, is the same true of the Rose Law Firm? We might as well cover them all.
THE WITNESS: I don't know of any. I wish I destroyed more paper over the years.

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MR. COHEN: It would cut the burden of production down.
THE WITNESS: Uh-huh.
MR. COHEN: If you have documents you want to show us this afternoon, while you are out, you can have someone watch us with the documents, that we would look at them now so we can speed through the afternoon.
I made this request prior to the deposition and you declined. Now it seems like a very sensible approach, given that you are going to duck out on us for a time.
MR. GIUFFRA: I would just prefer not to do that, if I can.
MR. COHEN: It is just not fair to end up, if that's the result, trying to go --
MR. GIUFFRA: Part of the problem is I don't know what documents I'm going to use because I don't know what her answers are going to be. Before I give you all these documents to look at, that's the problem.
MR. COHEN: I can only ask you to do it if

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you know. I accept that.
BY MR. GIUFFRA:
Q Ms. Wright, you knew Vince Foster; correct?
A I did.
Q When was the last time you saw Vince Foster?
A I don't know.
Q Did you see him on July 20, 1993, which was the day he died?
A No.
Q We have a Secret Service record that indicates you were at the White House residence on July 20, 1993. Do you know why you were there?
A That I was where?
Q At the residence of the White House on July 20, 1993.
A I don't remember.
Q Did you ever discuss anything having to do with Whitewater Development Corporation with Mr. Foster?
A Oh, no, not unless it was in passing about the Rose Law Firm during the '92 campaign.

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Q Did you ever discuss anything with Mr. Foster relating to something which is now known as Travelgate?
A No.
Q And you don't know anything about Travelgate?
A I know a lot about it from the newspapers.
Q But you have no direct knowledge of anything having to do with the firing of employees at the travel office?
A The answer is no.
Q Did you have any understanding as to whether Mr. Foster was working on anything relating to Whitewater prior to his death in July 1993?
A No.
Q Did you know -- do you know whether Mr. Lindsey was working on anything relating to Whitewater prior to Mr. Foster's death in July 1993?
A I know that at one point he was kind of the media point person for Whitewater. I don't remember juxtaposed with Vince's death.
Q Whitewater came up during the 1992

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campaign; correct?
A Correct.
Q And then it sort of went away for a while. When do you recall again being contacted by anyone at the White House or someone who had been involved in the campaign about Whitewater?
A I don't know. I do know that when the boxes were brought to Mr. Kendall's office, I went and pulled press Qs and As, so that he could review them, of stuff that we had done during the campaign.
Q That was late '93 that you did this?
A Yes. It was when they were --
Q When Hubbell brought them back to give them to Kendall?
A Yes.
Q Do you recall being at the White House at all during the days after Mr. Foster's death?
A I don't.
Q When did you first learn that Mr. Foster had left -- strike that.
When did you first learn that torn up scraps of paper were found in Mr. Foster's briefcase?

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A Whatever day it was in the press.
Q No one called you before it was announced to the press?
A No.
Q Did anyone from the White House discuss with you anything having to do with a review that was conducted of the documents in Mr. Foster's office in the days following his death?
A No.
Q Do you know anything about that?
A No.
Q Do you know anything about a transfer of any documents -- do you know anything about the handling of documents in Mr. Foster's office following his death?
A Nothing.
Q You don't know whether any documents that were in Mr. Foster's office were taken up to the White House residence, do you?
A I only know from press reports anything about that.
Q By "that," you mean anything having to do

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with the handling of documents in Mr. Foster's office?
A Correct.
Q Do you recall speaking to Mr. Foster while he was deputy White House counsel about any matter?
A Yes.
Q What were some of the matters you had spoken to Mr. Foster about?
A They weren't related to these issues.
Q Just generally, what were the matters that you spoke to Mr. Foster about?
A Possible problems around a person under consideration for a major appointment, the nanny policy of the government. I don't recall.
Q You left him a message in May 1993 where the "re:" was "re: Organization"?
MR. COLE: "Reorganization" one word, or "re" with the colon "organization"?
MR. GIUFFRA: "Re" with the colon "organization."
BY MR. GIUFFRA:
Q No recollection?

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A No.
Q Did you speak to the First Lady within two weeks following Mr. Foster's death?
A Yes.
Q What do you recall speaking to the First Lady about?
A His depression.
Q About the fact that he had been depressed in the period leading up to his death?
A Correct.
Q Were you aware of the fact that Mr. Foster was depressed prior to his death?
A Yes.
Q Do you know what particular subjects were causing Mr. Foster to be depressed prior to his death?
A Particular subjects don't cause depression. He was clinically depressed. It is a chemical imbalance in the brain. He was depressed as long as I have known him.
MR. GIUFFRA: Why don't we take a break right now. We will resume at 1:20.

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(Whereupon, at 12:05 p.m., the deposition was recessed, to be reconvened at 1:20 p.m. this same day.)

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AFTERNOON SESSION (1:45 p.m.)

Whereupon,

BETSEY WRIGHT

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

MR. GIUFFRA: This is a big topic, and the Committee has just started doing its investigation with regard to ADFA and Lasater. I want to make sure the record is clear and the Minority staff is aware of this.

Today's deposition is not the only time we will look at this ADFA/Lasater thing. If it comes out during the course of the investigation, if Ms. Wright's testimony becomes essential, we would ask for it.

I was doing a very preliminary, very quick examination.

MR. COHEN: I understand your position. Obviously if you come back to us, we will deal with the request at that time. As a practical matter --

MR. GIUFFRA: So you understand where I'm coming from?

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MR. COHEN: Yes. As a practical matter, I think you have exhausted Ms. Wright's particular knowledge with respect to ADFA.

EXAMINATION (Continued)

BY MR. GIUFFRA:

Q Ms. Wright, you don't recall being involved in any discussions about Governor Clinton's financial disclosure in connection with the '92 presidential campaign; am I right?

A The financial disclosure he filed as a candidate?

Q Yes, with the Federal Election Commission, FEC.

A Not the original one.

Q Do you recall being involved in discussions about the latter?

A I do, about the amended versions, but I don't remember specifically what the amendments were for or what the conversations were.

Q So we have exhausted the full extent of your recollection with regard to financial disclosure of Governor Clinton in connection with the '92

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presidential campaign; correct?

A Correct.

Q Do you recall any discussions of any discrepancies between Governor Clinton's state financial disclosure form and his federal financial disclosure form? By "federal," I mean the presidential disclosure form.

A Do I recall --

Q Any discussions of discrepancies between the two disclosure forms.

A I know I went through to check for discrepancies. If I found any, we obviously had discussions about reconciling them.

Q But you don't remember any specific discrepancies that you might have identified?

A I don't.

Q You don't recall any specific conversations you might have been involved in with regard to those discrepancies?

A It depends on what they were, if there were some.

Q Do you recall any discrepancies with regard

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to the now President's disclosure with regard to Whitewater, the state and federal disclosure?
A I don't.
Q Do you recall any discussions involving discrepancies between financial disclosure forms, state and federal, and the Clintons' taxes, income tax returns?
A Do I recall discussions?
Q Yes.
A Yes. I mean, I don't remember the specifics. I know that we were trying to utilize -- bring all documents into consistency.
Q But you don't recall any specific discussions about particular discrepancies between the tax returns and the disclosure forms?
A I know we had conversations. I don't remember what they were substantively.
Q Do you know who would have been involved in those conversations?
A Well, I think Mr. Jim Hamilton was in charge of the filling out and filing of them. So he would have been.

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Q Do you recall who else might have been involved? Mr. Lindsey, for example?
A Oh, we probably would have kept him apprised of anything, yes.
Q But you don't recall him participating in any discussions? That's Mr. Lindsey.
A Well, he was hardly around. If he participated, it was on phone discussions. He was rarely present in the headquarters. I did talk to the bookkeeper about trying to discover whether something was inconsistent.
Q Who was the bookkeeper?
A Yoly Redden.
Q Do you recall anything specifically about your conversation with Ms. Redden?
A No.
Q Were you aware -- did you have any role in the retention of David Kendall and Williams & Connolly to represent the Clintons in connection with Whitewater or Madison matters?
A No.
Q Were you aware of the retention of

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Mr. Kendall?
A After the fact, yes.
Q I assume -- did you ever meet with Mr. Kendall to discuss what you knew about Whitewater or Madison matters?
A I went to his office and went through my boxes and pulled anything I could that was related.
Ask me that question again.
MR. GIUFFRA: Let's have the question read back.
(The reporter read the record as requested.)
THE WITNESS: Yes.
BY MR. GIUFFRA:
Q When do you recall speaking with Mr. Kendall?
A I have spoken to him on a number of occasions, and this is one of the rarer times when I would use Whitewater and Madison in your big frame of reference, because I don't remember narrowly or broadly. But I remember trying to tell him who I thought would be helpful to him on various aspects as he familiarized himself.

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Q Do you recall when you would have had the conversation with Mr. Kendall, these conversations with Mr. Kendall?
A I guess I don't feel like they are over.
Q So you are still meeting with Mr. Kendall?
A Well, I don't meet with him anymore, and I don't talk to him as often.
Q Do you recall who you might have told Mr. Kendall would be helpful in connection with Whitewater-Madison related issues and specifically which issues that persons would be helpful with regard to?
A Well, I think just the obvious ones, and no, I don't remember who I said. I can only guess that I was trying to explain --
MR. COHEN: If you remember, please tell him. If you don't, don't guess.
THE WITNESS: I don't know specifically.
MR. COHEN: The laundry list of people who were involved we could probably all construct.
BY MR. GIUFFRA:
Q Were you aware of the fact that Mr. Kendall

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had a meeting on November 5, 1993 with Mr. Nussbaum, Mr. Lindsey, Mr. Lyons, Mr. Eggleston and Mr. Kennedy and Mr. Engstrom?

A Is this the one that has been -- is this the one that the Bill Kennedy notes --

Q The now famous meeting.

A I am aware of it only because you made it famous.

Q You were not aware of a meeting prior to when it became an issue during the course of our investigation?

A No.

Q And no one at the meeting discussed what transpired at the meeting with you in November of 1993?

A No.

Q Let me ask you a question. Did you ever speak to Mr. Nussbaum about Whitewater-Madison issues on any occasion?

A No.

Q Do you know Neil Eggleston?

A Yes.

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Q Did you ever speak to him about Whitewater-Madison issues?

A I don't know.

Q Is it possible that you spoke to Mr. Eggleston about Whitewater-Madison issues?

A Yes, it is possible. I don't know.

Q You just don't recall any conversations with Mr. Eggleston?

A I do.

Q You do recall a conversation with Mr. Eggleston about Whitewater or Madison issues?

A I don't know what it was about. I mean, I do know what it was about. Was it about Whitewater --

MR. COHEN: We are not going to talk about this in front of him.

MR. GIUFFRA: Why don't you speak with your lawyer about this.

(Recess.)

BY MR. GIUFFRA:

Q Ms. Wright, do you recall any conversations that you had with Mr. Eggleston about

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Whitewater-Madison issues?
A No.
Q Do you recall any conversations you had with Mr. Eggleston about any issue?
A Yes.
Q What issues would you have had conversations with Mr. Eggleston about?
A I gave him some documents.
Q When did you give Mr. Eggleston documents?
A I don't remember the date. When the securities department of Arkansas released all of its files, I got a set of them flown up to me, and I provided them to him and to Mr. Kendall, and he came by my house and picked them up.

I don't remember talking to him about anything else. He might have also been in some meetings I went to at the White House, but I don't remember talking to him. He might have been in the room.

Q Let's go back. Were these documents at the Arkansas Securities Commission publicly released --
A To the press.

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Q About Whitewater and Madison?
A Yes.
Q Or ADFA?
A No.
Q It would be Whitewater-Madison?
A Right.
Q Probably Madison actually; is that right?
A Whatever their files were.
Q It has to do with the Rose Law Firm's representation of Madison?
A I think that their documents were everything they had ever done with Madison.

MR. COHEN: There was a public release of documents.

BY MR. GIUFFRA:

Q Do you recall approximately when this was?
A No.
Q Was it during the campaign?
A No.
Q Post-inauguration? End of the year 1993?
A I don't remember.
Q After Mr. Foster died or before?

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A I don't remember.
MR. COHEN: It is a matter of public record. I can get you the date.
BY MR. GIUFFRA:
Q You recall getting the documents and then Neil coming out to your house and picking them up?
A Correct.
Q You may also have participated in some meetings with Mr. Eggleston at the White House; correct?
A He may have been in some of the meetings I participated in.
Q Are you aware of something which was called a Whitewater response team which was organized at the White House toward the latter part of 1993?
A That rings a bell.
Q Did you participate in those meetings?
A I don't think so.
Q The meetings that you attended at the White House, do you recall who attended them?
A John Podesta, Bruce Lindsey. One time Mr. Cutler. Once I think Dee Dee Myers was there.

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Q Was Mr. Cutler at all the meetings or did he come to just one?
A He went just to one that I recall.
Q This would have been a meeting sometime in the spring of '94; correct?
A It would have been after he had become the counsel.
Q But you attended meetings prior to when Mr. Cutler became White House counsel; right?
A I don't remember.
Q Do you recall how many meetings you might have gone to at the White House?
A Two or three.
Q Two or three about Whitewater?
A I don't know if it was about Whitewater. It was about something on the Arkansas record that was under attack again.
Q Do you recall anything about those meetings?
A No.
Q You just testified that you have been to you think about three meetings with regard to

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Whitewater-Madison at the White House. Do you have a White House pass?
A No.
Q So you have to wave in every time you go in?
A Yes.
Q With what frequency since January 30 -- strike that.
Between January 30, 1993 -- January 20, 1993 and August 8, 1994, with what frequency were you going to the White House? By "White House," I mean both the West Wing, EOB, Old Executive Office Building and the residence. Weekly, daily, monthly?
A It varied. I was very much involved in NAFTA and would go for NAFTA support meetings, sometimes several times a week. I did client meetings sometimes over there. I guess there were periods of time where I was going two or three times a week. I wasn't seeing the Clintons necessarily.
Q What frequency would you estimate you would have seen the Clintons between January 20, '93 and August 8, '94?

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A I don't know.
Q Monthly? Weekly?
A Yes. Every month or two.
Q Have you ever reviewed Whitewater or Madison documents with Mrs. Clinton?
A I have reviewed drafts of press answers on those questions with Mrs. Clinton.
Q Was it your practice to normally review -- strike that.
Was it your practice to review press answers with Mrs. Clinton before they were released?
A If they pertained to her.
MR. COHEN: This we have been over. I just wanted to point that out so we don't go over it again.
MR. GIUFFRA: I apologize. If I do that, it is only because --
MR. COHEN: I understand. Keep going.
THE WITNESS: It is only because what? Because you forgot?
MR. COHEN: No. Because he wants to make sure he got it. Go ahead.

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THE WITNESS: He does so much of this.
BY MR. GIUFFRA:
Q Have you ever prepared responses for Mrs. Clinton or been part of the process of preparing responses for the Whitewater-Madison questions since January 20, 1993 for Mrs. Clinton?
A I don't think so.
Q For example, are you aware that -- I believe it was April 1994 -- Mrs. Clinton gave a press conference in, I believe it was the east room at the White House, and it was about Madison and Whitewater. Do you recall that press conference?
A I do.
Q Did you play any role in preparing Mrs. Clinton for that press conference?
A I did not.
Q Since January 20, 1993, have you ever brought any documents to the White House that pertained to Whitewater or Madison? By "White House," I mean the entire complex.
A No.
Q Have you ever sent any documents to the

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White House?
MR. COLE: Other than what she has already testified to with regard to Mr. Eggleston? But that would be sent to the White House under a reasonable interpretation of what that means.
BY MR. GIUFFRA:
Q That's fine. Other than the Eggleston instance.
A No.
Q With regard to Mrs. Clinton again -- strike that -- Mrs. Clinton, you would have reviewed statements during the campaign. You don't think you reviewed responses after the inauguration; correct? That's the testimony; is that right?
MR. COHEN: Is that a question or a summary?
MR. GIUFFRA: It is a summary. I want to make sure I am summarizing it accurately.
BY MR. GIUFFRA:
Q Is that right?
A That's right.
Q At no time have you ever reviewed

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underlying Whitewater documents with Mrs. Clinton? By that I would mean, for example, the letter that Mrs. Clinton sent to Beverly Bassett Schaffer with regard to the issuance of preferred stock in 1985.

A That's correct.

Q So you personally have never reviewed underlying documents with regard to Whitewater or Madison?

A That's correct.

Q It was always either done before you got into the picture, done before you got into the picture or you relied on other people to do that; is that correct?

A That's correct.

Q Have you ever discussed -- strike that.

During the campaign, did you review Whitewater responses with Governor Clinton?

A I don't know. If it was particularly new or didn't want him to be blind-sided, I might have furnished something to him before we distributed it.

MR. GIUFFRA: Read back the answer, please.

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(The reporter read the record as requested.)

BY MR. GIUFFRA:

Q Do you have any recollection of furnishing something to Governor Clinton before you distributed it?

A Obviously I dealt with an awful lot of issues --

MR. COLE: I understood the line of questioning to go to original Whitewater documents and her answer to go to things including press responses.

MR. GIUFFRA: No. Let's be precise. One of the difficulties we have in trying to do it as fast as possible is sometimes we are not as precise as we would be otherwise.

BY MR. GIUFFRA:

Q With regard to responses of the Clinton campaign to press inquiries, did you ever review any of those with Governor Clinton relating to Whitewater or Madison?

A I frequently submitted to him draft responses. I can't tell you for sure whether they

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did or did not include things regarding Whitewater and Madison.

Q Do you ever recall showing any original documents to Governor Clinton?

A I don't recall ever seeing any Whitewater or Madison original documents.

Q After Governor Clinton became President, did you have any discussions with him -- strike that.

After Governor Clinton became President, did you assist him in any way preparing responses to press inquiries or any other inquiries regarding Madison-Whitewater?

THE WITNESS: Can I talk to you, please?

(Witness conferred with counsel.)

THE WITNESS: Can I hear the question again, please.

MR. GIUFFRA: Play it back.

(The reporter read the record as requested.)

MR. COHEN: This is going to be a very broad construction of that, but so we don't go through a torturous analysis, she can go ahead.

MR. GIUFFRA: Off the record.

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(Discussion off the record.)

THE WITNESS: I had a conversation with the Clintons when we were all trying to figure out what on earth David Hale was talking about. It wasn't necessarily to respond to any particular inquiry, but we were trying to figure out anything that he could possibly be talking about.

BY MR. GIUFFRA:

Q When would this conversation have been? Sometime in the fall of 1993 or earlier? He was -- the Governor was President when you had this conversation?

A Yes.

Q Was it before or after Foster's death?

A I think it was after.

Q Do you know David Hale?

A I have met him.

Q How many times?

A Maybe once, twice.

Q When do you recall meeting him?

A I don't know.

Q He was a figure in Arkansas politics?

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A No; he was a nothing. He has clearly convinced some people he was. But he was a nothing. He was a sleazebag.
Q Did he ever meet the Governor?
A Of course.
Q When did he meet the Governor that you can recall?
A Political events around the state. He did have some relatives who were some decent people and supporters, one of whom held a major position in one of our departments.
Q Who was that?
A John Hale. I think he is deceased now.
Q What department was that?
A Finance and administration.
Q Do you recall David Hale ever visiting the Governor's office at the state capital?
A I don't recall.
Q Do you recall him ever visiting the Governor's mansion?
A I don't recall.
Q Did you ever see Governor Clinton and David

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Hale together in the same location?
A Alone?
Q Or with other people.
A Listen, David Hale is about the most insignificant forgettable character in the world. So I don't remember much about him at all except he was a nothing.
Q Did the Governor when you met with him sometime in I think 1993 -- is that fair?
A I don't know.
Q The President. Excuse me. What did the President say to you about David Hale, his interactions with David Hale, if anything?
A We were just all collectively asking the questions, what could he be talking about, what kinds of loans could he be talking about, did he have something that had loans.
Q Who was present --
A We were just trying to remember anything that linked to David Hale.
Q Who was present at this meeting?
A It was a phone conversation between the

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President, the First Lady and myself.
Q About how long was the telephone conversation?
A Maybe 30, 40 minutes.
Q And who advised the President that David Hale was making allegations with regard to loans and the President?
MR. COHEN: If you know.
THE WITNESS: Beats me.
BY MR. GIUFFRA:
Q Did he indicate Mr. Lindsey advised him of this fact?
A No.
Q When was the first you heard David Hale was making allegations about the President?
A Calls I got from reporters, which preceded this conversation with the President, by the way.
Q Were you the person that brought this to the President's attention?
A No.
Q He was aware of the issue when you spoke to he and Mrs. Clinton; correct?

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A Yes.
Q And did they call you or did you call them?
A They called me.
Q What do you recall more specifically about this telephone conversation with the President and Mrs. Clinton about David Hale?
MR. COHEN: Is there anything else other than what you said?
THE WITNESS: That's it.
BY MR. GIUFFRA:
Q Where were you at the time of this phone call?
A At my house.
Q In Washington, D.C.?
A Uh-huh, yes.
Q Do you recall any other discussions since January 20, 1993 with President Clinton about Whitewater-Madison-related matters?
A I had one conversation with him on a topic which probably has nothing to do with a strict definition of Whitewater-Madison-related matters, though it is synonymous in my mind, and that is how

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on earth was I going to pay for the legal bills associated with this.

Q Any other conversations that you can recall?

A That's the only one I can recall.

MR. COLE: Before we leave this conversation regarding David Hale --

MR. GIUFFRA: I know what you want to ask. That's what I'm going to get into.

BY MR. GIUFFRA:

Q What did President Clinton say to you about Mr. Hale's allegations?

MR. COLE: You are on the right track.

THE WITNESS: We couldn't figure out what he was talking about.

BY MR. GIUFFRA:

Q Did the President indicate he believed these allegations were false?

A We knew they were false. We all knew they were false. We couldn't figure out what he was hanging it on though.

Q Did the President ever indicate to you that

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he had ever met Jim McDougal and David Hale on any occasion together?

A No. He asked me whether I could remember if he had ever met with them.

Q Did the President indicate to you whether he had ever met with David Hale?

A Did I know whether he ever had?

Q Did he indicate to you whether he had ever met with him?

A He clearly couldn't remember any such meeting.

Q He couldn't remember anything about any contacts he might have had with David Hale; correct?

A Other than the informal running-into-him context.

Q Is the President somebody who has a good memory?

A Yes.

Q Are you someone who has a good memory?

A On some things, not on numbers. Anything that has numbers I don't remember.

Q Is Mrs. Clinton someone who has a good

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memory?
A I don't know.
Q Do you recall anything more about your conversation with the President and Mrs. Clinton about David Hale, just anything?
A That's it. We were just in total perplexity about what on earth this guy was talking about.
Q And you knew that the allegations related to a $300,000 loan that had been made to an entity that was controlled by Susan McDougal; is that right?
A Actually, I don't think we knew that much about it at that point. But it was some loan that he thought Bill -- he was claiming Bill got him to make or something like that.
Q When did you first learn of an investigation of Mr. Hale, if you know?
A I would only have learned of it from the press.
Q Did there come a time when you learned that the RTC was investigating Madison?
MR. COLE: That's a very difficult question

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if you don't distinguish between RTC regular examinations which they do of all savings and loans or are you talking in terms of civil liability?
BY MR. GIUFFRA:
Q Do you recall any investigations by the RTC with regard to Madison relating to civil or criminal liability?
MR. COHEN: Are we talking about Jay Stephens?
MR. GIUFFRA: Let's go back.
MR. COHEN: Is this the RTC referral issue?
MR. GIUFFRA: Yes.
MR. COHEN: Let's tag the issue so we know.
BY MR. GIUFFRA:
Q Did there come a time when you learned of an investigation by the RTC that ultimately led to certain criminal referrals being made to the Department of Justice?
A Yes.
Q When did you learn of this investigation,

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RTC investigation?
A Well, the first time I heard about it was in the fall of 1992, and at that point I regarded it -- there was no way to verify it. So, I didn't know whether it was true or not. I now know that it was.
But in about September or October of '92, some RTC official at a cocktail party in Kansas City told somebody who supported Bill Clinton from California who was visiting in town that they had just sent a criminal referral up to the prosecutor in Little Rock. And that is all I was given over the phone. I went scrambling trying to find out what on earth they were talking about.
Q Who was the person that contacted you?
A A friend of this person from California who was at the cocktail party with somebody from the RTC.
Q Who was the person that contacted you? The name?
A I don't remember the name.
Q So, there was a person from California who

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called you; correct?
A A friend of a person from California.
Q A friend of a person from California. Where does the friend reside?
A I think in California.
Q So a friend of a person you knew in California called you --
A I didn't know them. I was fairly high visibility as somebody who was dealing with Bill Clinton's person and personal defense. So, I didn't necessarily have to know them.
Q They called you, and this person, was it the friend of the person you knew who was at the cocktail party in Kansas City? I'm getting confused.
A The person at the cocktail party did not call me.
Q The cocktail party was in Kansas City?
A Correct.
Q And at the cocktail party some RTC official said there had been criminal referrals made or a criminal referral --

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A Involving the Clintons.
Q This person in Kansas City, was that the same person who was in California or was it a different person?
A This is much ado about nothing, since the referral never came to light. But the first time I ever heard of a criminal referral regarding Madison Guaranty was when I received a call from a guy in California. He had been told by another person in California that this other person in California had returned from Kansas City on some business where he had attended a cocktail party where a person from RTC had told him that there had just been a criminal referral regarding a savings and loan official in Arkansas and it involved the Clintons. That's the totality of what I was told.
Q This phone call occurred before the election?
A Absolutely.
Q So, it was a September-October phone call?
A Correct.
Q You were in the campaign headquarters when

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you got the call?
A Correct.
Q Who did you advise of this phone call at the campaign?
A Probably nobody.
Q You never spoke to Mr. Lindsey about the fact that there might be this criminal referral naming the Clintons as witnesses?
A I don't know why I would have.
Q Did you --
MR. COHEN: You understood it because you sort of stopped the question; the naming them as witnesses didn't come from her.
MR. GIUFFRA: Just mentioning the Clintons.
BY MR. GIUFFRA:
Q Did you speak to anyone, anyone in the campaign, outside the campaign, anyone, about this telephone call you had received regarding an RTC criminal referral mentioning the Clintons?
A I called a friend who was a criminal defense attorney.

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Q Who was that?
A And I asked him --
Q Who was that friend?
A Let me finish. I asked him whether there was any way to find out whether there was any grand jury consideration of anything that we could know, and he told me no, because those things would always be in secret. So there really wasn't any way for me to find out if there was anything there or not.
His name was Bill Wilson. He was an attorney in Little Rock.
Q Was Bill Wilson involved in your efforts in terms of defense work?
A No. I think that is the only time I ever talked to him.
Q Who is Bill Wilson?
A He was a criminal defense attorney in Little Rock at that time.
Q Now he is a federal judge?
A Correct.
Q He was a law partner at the Wright, Lindsey firm with Mr. Engstrom?

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A No. Mr. Engstrom is not at Wright, Lindsey.
Q Is that where Mr. Wilson was?
A At Wilson, Engstrom, whatever it was. He has now left that firm. It is a different name.
Q Did you regularly speak to -- strike that.
Did you speak with Mr. Wilson about defense matters during the campaign?
A No, I didn't. Fortunately I didn't know a whole lot of criminal defense lawyers. I knew Mr. Wilson represented Roger Clinton. Therefore I knew he was someone who practiced criminal defense work in federal courts. So I just called to say is there a way to know, is there a public record on this. The answer was no, there isn't, and that was it.
Q Did you speak to anyone else other than Mr. Wilson about the allegation of an RTC --
A Not that I can remember.
Q Have you ever spoken --
A To tell you the truth, the words "RTC" weren't mentioned. The person was RTC, but I didn't

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make the connection that it was an RTC referral at that time.

Q You had no other conversation with anyone else about -- strike that.

Did there come a time when you discussed the fact that this communication from California with regard to criminal referrals regarding the Clintons and an S&L person with anyone other than Mr. Wilson? You identified that contact. Was there anyone else?

A I don't think I did. I can't recall doing so. Usually when I couldn't verify things I didn't proceed on them. I did think that it was highly improper for an official to be talking about a criminal referral at a cocktail party. With that in mind, I did once mention it to Mr. Kendall after he had been hired. But it was so cold and so long ago that it was gone.

Q Did you ask Mr. Wilson to take any actions with regard to the criminal referral?

A No. I asked him whether there was a way to find out about it.

Q Do you know whether Mr. Wilson contacted

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anyone with regard to this?

A He said there wasn't any way to know anything about it.

Q Other than this communication with the person from California about a criminal referral during the campaign, did you have any other communication with anyone about criminal referrals?

A I remembered I asked Hillary if she was aware of any friend of theirs who was in a savings and loan business who might be under criminal investigation, and we couldn't think of anybody.

Q This was a conversation you had with Mrs. Clinton during the '92 campaign? Was it -- the same time you spoke to Mr. Wilson you spoke to Mrs. Clinton; correct?

A I mean, it wasn't at the same time, but it was in that time period.

Q Prior to the election? Prior to the '92 election?

A Yes.

Q Did you speak to anyone else?

A I don't remember anybody else. This is not

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anything I have thought about for a long time, frankly.

Q Do you think you spoke to Ms. Lynch about it, about the criminal referral?

A I don't remember doing so.

Q Did you have staff meetings with the other members of your defense group during the campaign in which you would discuss --

A More team meetings.

Q Did you have team meetings to discuss the allegations that were being made?

A Yes.

Q You don't recall raising this issue of the criminal referral at the team meeting?

A I don't remember doing so. I didn't have enough to go on. It is only in hindsight that I realized the real significance of it.

Q Do you know Paula Casey?

A I do.

Q How do you know Paula Casey?

A Democratic party activities.

Q In Arkansas?

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A Correct.

Q What do you know about the appointment of Paula Casey?

A I'm sorry?

Q What do you know about the appointment of Paula Casey as U.S. Attorney?

A Nothing.

Q Did you have any role in the appointment of her?

A None.

MR. COLE: Do you know whether Governor Clinton had any role in the appointment of Paula Casey as U.S. Attorney?

THE WITNESS: Does the President do the appointment?

MR. COLE: Other than the obvious.

THE WITNESS: My assumption was that since she had worked for Senator Bumpers that it was a courtesy appointment for Senator Bumpers. That was my assumption. While we had known Paula, she had never been that closely involved with the Clintons on their campaigns.

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BY MR. GIUFFRA:
Q Do you know Brent Bumpers?
A I have met him, and he makes very good cookies. Have you had them, the Brent and Sam cookies?
Q Have you ever spoken to anyone --
A It is his business. That's mainly how I know him.
Q Have you ever spoken to Mr. Bumpers about anything having to do with Whitewater or Madison or David Hale, Brent Bumpers?
A No.
Q Have you ever spoken to Senator Bumpers about anything having to do with Whitewater, Madison or David Hale?
A I don't think so.
Q Have you ever spoken to Ms. Casey about anything having to do with Whitewater, Madison or David Hale?
A Never.
Q Let me show you a document, Bates number S 7804. This is a Bruce Lindsey call schedule that

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we received dated December 2, 1993.
Does this call schedule refresh your recollection of a call that you made to Mr. Lindsey?
(Witness examined the document.)
A What is this trying to say? I left this message?
Q According to this call schedule it says "re: David Kendall's, Jim Lyons' and files."
A When was Mr. Kendall hired?
Q I believe he was hired sometime in November of 1993.
MR. COHEN: The question is does it refresh your recollection.
THE WITNESS: When did my boxes get moved to Kendall's office?
BY MR. GIUFFRA:
Q I don't know. Do you know when the boxes were moved to Kendall's?
A My boxes?
Q Yes.
A I don't.
Q The boxes that were moved -- the boxes were

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moved by Mr. Hubbell, not by you; is that right?
A That's correct.
Q The boxes were not in your possession?
A I always thought they were my boxes. They were my files.
Q Have you ever provided any documents to Mr. Kendall yourself?
A Oh, yes.
Q What documents have you provided to Mr. Kendall?
A Could we finish one subject before we go to another one? I feel zigzagged here.
MR. COHEN: There is a question that she hasn't answered which is does that call refresh her recollection about any conversations with Bruce Lindsey about files and Jim Lyons. Does it refresh your recollection?
THE WITNESS: Not of the specific conversation.
BY MR. GIUFFRA:
Q Generally?
A Generally it probably was about my files

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going to Kendall's office, and it probably was a suggestion that they get Jim Lyons' files to Kendall's office.
Q When you say your files, are you saying the files that Mr. Hubbell had?
A Correct, the boxes that I had taken out of my office at the headquarters.
Q Did you ever take documents that were in your possession, and by that I mean home or at work, and give them to Mr. Kendall?
A Yes.
Q When did you do that?
A I did it once in early January, as I have reported to you already.
Q That's the box you got at the storage facility?
A Correct.
Q In Little Rock in January '94.
A Yes.
Q What else?
A In responding to Independent Counsel, combing through stuff at my house, obtaining

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information, transferring stuff to Mr. Kendall generally through my lawyer.

I think that before I had you, Mr. Cohen, I might have transferred -- I made copies of the appointments files of Beverly Bassett Schaffer when I was in Little Rock that time and in January of '94, and I gave him what I had copied at that time. There might have been two or three other sheets of paper.

Q Do you recall what those other sheets of paper were?

A They are pretty much the documents that we forwarded you this week that you had already received from Mr. Kendall.

Q Were those documents you maintained at home or were those documents at the storage facility in Little Rock?

A They had been at the storage facility. They had come to me at my home.

Q When did you remove documents from the storage facility and take them to your home? This is Little Rock home or Washington home?

A Washington home.

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Q When did you do that?

A I went to Little Rock in January of '94 and identified a number of boxes and assorted documents to be shipped to me on finance, political finance stuff, as I told you before.

Q Those documents were shipped to you?

A They were shipped to me in D.C. at my office. Then I took them to my house. Then I hired a lawyer. And then I took them to his office.

Q About how many boxes of documents did you have shipped to you?

A 11 in that batch. Another two or three a few days later. That was some information I called and said by the way, add to the shipment the following stuff that is probably in the following boxes.

Q And who asked you to go -- is this again things you did of your own accord?

A Correct.

Q Did you advise Mr. Kendall you would be going to Little Rock to look through the boxes in the storage facility that he might need?

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A No, that's not the way I did it.
Q This is something you did on your own. Could we just --
A We were at that point furnishing or had furnished to the Justice Department documents. Obviously, as I noticed anything else that I thought was remotely related, I made note of it.
(Pause.)
Q In order to get into the storage facility, you contacted someone from the Democratic National Committee headquarters in Little Rock?
A Yes.
MR. COHEN: Who did you contact?
THE WITNESS: Susie Whittaker.
BY MR. GIUFFRA:
Q Who went over with you to the storage facility?
A Becky Vincent.
Q Who was Susie Whittaker?
A She was the assistant press secretary in the Governor's office.
Q What did you tell her?

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A That I was going to get the finance files and bring them back to Washington.
Q You did this of your own accord and not on anyone's instructions?
A I didn't do it on anyone's instructions. I told a bunch of people I was going to do it because I was pretty tired of not having what I needed.
Q Who did you tell?
A I told Bruce. I told John Podesta. I told David Kendall because I told him I was bringing them to his office for storage.
Q Anyone else?
A That's all I remember right now.
MR. GIUFFRA: Can we take a one-minute break just for a second?
THE WITNESS: Absolutely.
(Recess.)
BY MR. GIUFFRA:
Q Was there a meeting at which a decision was made that you would go to Little Rock to look for documents that might be necessary to respond to investigatory subpoenas and also press inquiries?

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A No.
Q Again, you did this on your own accord and you told Lindsey, Kendall that you would be doing it; correct?
A Correct.
Q Do you know if Mr. Kendall ever went out to the storage facility to look for documents?
A Yes.
Q By the way, when you got the documents from the storage facility, you took the originals of whatever was in the files; right?
A Of the finance records.
Q You took everything with you?
A Yes.
Q And then Mr. Kendall ultimately got them from you; is that correct?
A Got what from me?
Q After you got the documents from Little Rock, you brought them to your office first; right?
A Uh-huh.
Q That was sometime in January '94?
A Yes.

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Q And then there were a subsequent two or three boxes and then you brought them home?
A Yes.
Q Was that within the same time frame?
A Yes.
Q Do you recall when you might have gone to Little Rock?
A Yes. I went the day before Virginia Kelly's funeral.
Q You spent one day at the warehouse?
A No. I spent two or three days.
Q Did anyone assist you?
A Not really. Becky was out there, and if I wanted not to take an original, she would make the copy and then I would show her what I wanted reboxed and shipped to me.
Q Was there a copier out at the storage facility?
A Yes.
Q And did you -- it was just the two of you that were out there at the storage facility. Were there any other witnesses to your review of the

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documents in the storage facility?
A No.
Q Did you destroy any documents in the course of the review process?
The answer is no?
A No.
Q Do you know whether anyone else has ever destroyed any -- strike that.
MR. COHEN: She has already answered I was going to say.
BY MR. GIUFFRA:
Q Did Ms. Whitaker have to get permission from anyone to let you into the storage facility?
A She probably did.
Q Do you know who she contacted?
A Probably Bruce Lindsey and/or John Tisdale.
Q Do you know that for a fact or is that an assumption you are making?
A It is a fact.
Q This process, did it begin the three days before Ms. Kelly's funeral or was it her funeral and

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then a couple days after her funeral?
A I made the plans to go down, and she died just before I left Washington. But I went on, and I did work. The day of the funeral I didn't work, I went to the funeral, and then I came back and did some work, warehouse work.
Q Did you have the boxes shipped -- basically how soon after you finished reviewing the documents were the boxes shipped?
A They probably shipped them a couple of days later.
Q How long were the boxes in your house -- at your office?
A Not long.
Q Maybe a week or two?
A Oh, no.
Q Less than that? Two or three days?
A Two or three days in each place.
Q Then they were at your house and then they went to your lawyer's office?
A Uh-huh.
Q They didn't go directly from your house to

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Mr. Kendall's office?
A No, they never went to Mr. Kendall's office.
Q Do you have any documents at your house or are they all gone to your lawyer's office?
A They are all gone to my lawyer's office.
Q You retained copies of all documents that you identified that were shipped to you in January of 1994?
A No.
Q You have not retained copies of all documents?
A No.
Q Has your lawyer retained copies of all documents as far as you know?
A No.
Q What has happened to the copies of other documents? What happened to some of these documents that you didn't maintain copies of?
A We transferred some things to Mr. Kendall that I was just sick and tired of paying copying costs on.

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Q What documents were those?
A I know some stuff I pulled together on Dan Lasater, my work files on Dan Lasater. I don't know what else.
Q What was contained within your work files for Dan Lasater?
A State police radio. I don't remember what else.
Q Those were underlying documents, am I correct, like bond offering agreements?
A I doubt it.
Q Legislative materials?
A I doubt it.
Q Newspaper articles?
A Newspaper articles.
Q Were there any memos that you wrote on Dan Lasater?
A Maybe. I haven't reviewed those files in a long time.
Q Do you recall anything more about what was contained in the Lasater files, in your files with regard to Dan Lasater?

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A No.
Q Did you ship any -- did you give any other documents to Mr. Kendall?
A Well, if I found other things in my house, in my personal records that I thought were in his area, as areas started settling in, we transferred them to him. I don't recall specifically.
MR. COHEN: Excuse me a second.
(Pause.)
Why don't we clarify this like sort of once for everybody and then --
MR. GIUFFRA: It is a bit confusing.
MR. COHEN: It is not nearly as confusing as it comes out this way. Ms. Wright became custodian of records of campaign --
THE WITNESS: Gubernatorial campaigns.
MR. COHEN: From 1982 forward.
THE WITNESS: No.
MR. COHEN: There came a time --
BY MR. GIUFFRA:
Q Is that right or wrong?
A That's wrong. I have the '78 and the '80

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records also.
Q The '78, '80, all the gubernatorial records you are the custodian of?
A No. I don't have '90.
MR. COHEN: Originally including '90. Since she was not involved in the '90 campaign, it made no sense for her to be custodian of records of that campaign. The custodian of records of that campaign became John Tisdale. Consequently, the boxes of documents that came from the '90 campaign were given to Tisdale.
THE WITNESS: Correct.
MR. COHEN: Material that did not relate to the custodianship of the campaign, which was the only function which she performed as custodian, were given to Kendall, who produced them pursuant to a variety of requests from agencies.
BY MR. GIUFFRA:
Q Is that correct?
A Correct.
Q On this December 2 call, '93, you have no recollection of it?

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A I don't remember it specifically.
Q You don't recall what files it could be talking about? Just Whitewater files possibly, Madison files?
A Rarely in my life has anything been limited to either Whitewater or Madison. There are very rare periods when that is all anybody happens to be asking about.
Q Did the documents have anything to do with any of the subjects specified in our resolution?
A I don't know.
Q Did it have to do with Lasater, do you think, David Hale, the Rose Law Firm?
A No.
Q You don't think so.
How well do you know Webster Hubbell?
A I know him fairly well without being a confidante.
Q A friend?
A Yes. And a friend because he was a friend of the Clintons.
Q When did you first learn that an issue had

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arisen with regard to how he was handling expenses at the Rose Law Firm?
A I guess when he left the Justice Department.
Q That would be sometime in 1994?
A I'm going to rely on you for the years. I don't know.
Q You don't recall anyone discussing it with you prior to that time, the possibility of problems involving his expenses at the Rose Law Firm; correct?
A I don't.
Q Did you ever discuss anything having to do with Whitewater-Madison, David Hale with Judge Hubbell?
A Only generically, not in specific.
Q During 1993, did you discuss with him -- do you recall any discussion you had with Judge Hubbell during 1993 about Whitewater or Madison?
A No. I don't remember any. I mean, if we talked, it was just the wringing of hands that all of us do about this crap circulating in the air.
Q Did you have any discussions -- you know

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Bill Kennedy; right?
A Yes.
Q Did you ever have any discussions with Bill Kennedy about anything having to do with Whitewater or Madison?
A No.
Q Do you know a man named Randy Coleman?
A I don't know if I have ever met him. I know he is a lawyer in Little Rock.
Q Do you know a guy named Richard Mays?
A Yes.
Q Who is Richard Mays?
A He is a lawyer in Little Rock.
Q Have you ever discussed David Hale with Richard Mays?
A No. I don't discuss David Hale, and I never did before.
Q We have a message slip from you to Judge Hubbell 12/2/93. It says "Betsey Wright message video games." Do you know what that could refer to?
A Video games?
Q Yes.

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The Bates is 11192, GRO 000889.
(Witness examined the document.)
A I don't know.
Q Okay. Do you know a man named Mr. Matsui, M-a-t-s-u-i?
A It sounds familiar.
Q Someone at the White House, perhaps?
A Are you talking about Doris Matsui.
Q Could be. Did she work at the White House?
A There is a Doris Matsui in the public liaison office of the White House. She is the wife of Congressman Matsui of California.
Q She is someone you visited at the White House?
A Probably. She was involved in NAFTA.
Q Okay. That answers the question.
Was Mrs. Matsui or a friend or relative of Mrs. Matsui a person that advised you of the statements being made by the RTC person in California?
A No.
Q This is a document bearing Bates S 9199.

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This is a Vincent Foster telephone log dated May 24, '93. Do you know why you -- do you know what this message could be about?

A No.

Q Do you recall calling Mr. Foster on May 24, 1993?

A No. I mean, I do recall that I called him a couple times. I don't remember the specific date and that doesn't ring a bell.

Q Let me show you another document, S 7754. This is a message slip that we received from the White House. My understanding is that Melanie is --

A Melane.

Q She is the secretary to Mrs. Clinton?

A No. She is the policy advisor.

Q Do you know why you might have been calling Melane on 7/27/93?

A No.

Q Again, with regard to -- did you discuss -- strike that.

Before the discovery of the Foster torn-up scraps of paper became public, no one discussed it

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with you; correct?

A No.

Q Have you ever discussed those scraps of paper with Mrs. Clinton?

A No.

Q President Clinton?

A No.

Q Let me show you a message slip, this is S 7827 from Bruce Lindsey. January 6 '94, is that the time you were in Little Rock perhaps?

A Yes.

Q You think you were calling Mr. Lindsey when you were reviewing documents in Little Rock?

A Yes.

Q Do you recall any issues that you raised with Mr. Lindsey in the course of your conversations with him while you were in Little Rock?

A That call, I think that was the night before Virginia's funeral. I think the funeral was on the 7th. I think Saturday was the 7th. I called him and Mr. Kendall when I found the box of Whitewater documents. I learned that Mr. Kendall was

en route to Little Rock for the funeral.
Q Not Mr. Lindsey, but Mr. Kendall was en route.
A Uh-huh.
Q Now, that box of Whitewater documents, was that picked up by Mr. Kendall or was it shipped by you back to Washington?
A I hand-carried it back to Washington.
Q I show you another message. This is Vincent Foster S 9220. It is a call on July 16, 1993, 9:58 a.m. Any recollection of placing this call to Mr. Foster?
A When did he commit suicide?
Q He committed it on the 20th.
A Is this a Friday?
Q I think that is right.
A I know I talked to him the Friday before he killed himself on Tuesday.
Q Do you recall what you talked to him about?
A I did.
Q What was that?
A I was talking him about the nanny policy.

Q That has to do with the tax issue with regard to -- what is the nanny policy?
A That's what it is.
Q Whether you have to pay income tax on --
A I was specifically addressing --
Q A possibly appointment?
A No. That there were some people in the administration who needed to change nannies, and there needed to be a specific time given them that was reasonable to find new nannies.
MR. COHEN: I don't think that is within the scope of the Senate resolution.
MR. GIUFFRA: No, I don't think it is.
BY MR. GIUFFRA:
Q We have a record indicating you visited President Clinton in the residence on September 8, 1993 at approximately 7:30 p.m. Do you have any recollection about what that could be about, that meeting?
MR. COHEN: Do you know what day of the week it was?
BY MR. GIUFFRA:

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Q No recollection?
A Are you sure it was p.m.?
Q That's the time I see here, 1930, which I would think would be 7:30 military time. I will give you that.
A Do you think it was a dinner party or something?
Q I have no idea. That's why I asked the question.
MR. COHEN: Right, he wouldn't know.
THE WITNESS: Or a movie or something.
BY MR. GIUFFRA:
Q Is that what it could be?
MR. COHEN: That's why I asked what day of the week it was.
MR. GIUFFRA: I'm not sure.
MR. COHEN: In any event, she doesn't remember, she doesn't remember.
BY MR. GIUFFRA:
Q You don't recall meeting with the President in September of 1993?
A I don't attach times and dates.

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Q Did there come a time when you learned that Governor Jim Guy Tucker was under investigation for activities relating to Madison Guaranty and Capital Management Services?
A Through the media.
Q Never discussed it with him?
A With Jim Guy?
Q Yes.
A No.
Q Or anyone from his staff?
A No.
Q Did there come a time when you learned that he was mentioned in an RTC criminal referral?
A Just through the press.
Q Do you recall discussing Jack Palladino with Webster Hubbell in July of 1993? Excuse me. June of 1993.
A Well, I attach the date because I assume you have the phone message that the press has. So I can put the date on it. I remember talking to Web about a Jack Palladino matter.
Q What was the matter you were discussing

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with Judge Hubbell?
A Jack had learned some things in the course of some work he did for another client that he felt he wanted to pass on to someone at the Justice Department, and I asked Web whether he would be willing to talk to Jack, and he said yes, just give me his phone number. So I called his office and left the phone number.
Q Do you know what the matter related to?
MR. COHEN: Did the matter relate to anything in this resolution?
THE WITNESS: No.
BY MR. GIUFFRA:
Q What did the matter relate to?
MR. COHEN: Unless it related to something in this resolution, I will not let her disclose it.
MR. GIUFFRA: I can't think of any basis. I'm not looking to probe the matter. I want a general description of what the matter was, other than a matter that someone thought he should know about.
THE WITNESS: It was a military matter.

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BY MR. GIUFFRA:
Q Can you be more specific than just a military matter?
A I didn't have a specific conversation with him about the substance of the issue.
Q Palladino wanted to speak to Hubbell about a military matter?
A He wanted to speak to someone in the Justice Department. I asked Web whether he would be willing to speak to someone and he said yes.
Q Is this an issue that has a civil or a criminal law nexus?
MR. COHEN: If you know.
THE WITNESS: I don't know.
BY MR. GIUFFRA:
Q Did it have anything to do with the Clintons?
A Nothing, and from Web's testimony, it hurt my feelings that he didn't remember. But they never linked up.
Q Do you recall, Ms. Wright, whether it had anything to do with an appointment that Judge Hubbell

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wanted to make at the Justice Department?
A No, it didn't. It was a policy issue.
Q You don't recall anything more about it?
A I knew nothing, no details about it.
Q Generally, do you know anything more than just a military matter?
A I do know one thing more specific, but it has nothing to do with this resolution, and in the context in which we are talking, I really would prefer not to deal with it.
MR. COHEN: It doesn't relate to your resolution. It is a policy matter and it doesn't relate to the Clintons.
MR. GIUFFRA: But I think it is our responsibility to decide what does and doesn't relate to the resolution.
MR. COLE: I think Ms. Wright has been quite forthcoming in trying to let you determine whether there is any nexus here.
MR. GIUFFRA: Judge Hubbell has given us contrary testimony with regard to this conversation with Mr. Palladino.

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MR. COLE: The fact that he doesn't have perfect recall of every inconsequential telephone conversation is not a subject for this. We are not investigating Judge Hubbell here. Maybe we should go off the record and let Ms. Wright discuss it with her counsel and then perhaps her counsel can --
MR. GIUFFRA: Let's do that.
(Discussion off the record.)
MR. COHEN: I can't satisfy you any more other than Ms. Wright's other testimony. She described generically the matter.
MR. GIUFFRA: She said it had to do with Jack Palladino, the military and Webster Hubbell.
MR. COHEN: Right, and a matter that Palladino thought that someone in the Justice Department ought to know about. It doesn't relate to the Clintons, doesn't relate to ADFA, doesn't relate to Madison, doesn't relate to anything in this resolution.
THE WITNESS: Doesn't relate to Arkansas, period.
MR. GIUFFRA: Doesn't relate to Vincent

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Foster?
THE WITNESS: No.
MR. COHEN: If you would like, I can go through each and every one of the items in this resolution, and Ms. Wright will affirm that it has nothing to do with any of them.
MR. GIUFFRA: The difficulty we have is that Judge Hubbell has given a different description of what this phone call had to do with.
MR. COHEN: Why don't you ask her if his description of the phone call is correct and she will be glad to tell you.
MR. COLE: Off the record.
(Discussion off the record.)
MR. GIUFFRA: He I believe said it had to do with the President's genealogy.
THE WITNESS: It didn't.
BY MR. GIUFFRA:
Q And you don't want to go beyond "the military."
MR. COHEN: I will say for the record now that we are back on that it had nothing to do with

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Vince Foster's death, nothing to do with the Clintons, nothing to do with Arkansas, nothing to do with any matter in this resolution or Arkansas or anything else conceivably within the ambit of this committee.
MR. GIUFFRA: Fine.
BY MR. GIUFFRA:
Q During the campaign, Mr. Palladino, he was paid by the campaign; correct?
A Correct.
Q Since that time, has he still done work?
A No.
Q No work for the Clintons?
A None.
Q Was Mr. McLarty involved in Whitewater-related matters in '83 and '84, as far as you know?
A I don't know anything about Whitewater matters in '83 and '84.
Q I'm sorry. '93 and '94.
A I don't know.
Q Was Mr. Burton at all involved? Did you

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have any dealings with Mr. Burton about Whitewater-Madison-related matters in '93 and '94?
A I don't think so.
Q Did you speak to Mr. Burton at all, do you think, in '94 about Whitewater matters?
A No, I don't think so.
Q Let me show you a document bearing Bates S 8378. This is a memo from Mac McLarty from Bill Burton, subject, Betsey Wright, dated March 29, 1994 that begins "I spoke with Betsey Wright again today" and it discusses things you discussed with Mr. Burton, including Whitewater.
(Witness examined the document.)
Any recollection of speaking with Mr. Burton?
A Well, I mean, I clearly called to tell John Podesta.
Q You had a lot of dealings with John Podesta at this point?
A I was getting a lot of press inquiries and I did try to coordinate with the White House and make them aware of them.

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Q Do you recall speaking to Mr. Burton?
A I spoke to him a lot, but not on this issue. He was a long-time friend.
Q Did you ever speak to Mr. Burton about anything having to do with the handling of documents in Mr. Foster's office?
A No.
Q Did you ever speak to anyone at the White House about the handling of documents in Mr. Foster's office at any time?
A No.
Q Did you ever speak to anyone in the White House about the fact that the scraps of paper in Mr. Foster's notebook were not found sooner?
A No.
Q Nothing having to do with --
MR. COLE: You mean in Mr. Foster's briefcase.
MR. GIUFFRA: Excuse me.
THE WITNESS: No.
BY MR. GIUFFRA:
Q S 7832, this is a Bruce Lindsey call

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schedule, this document. It says "Betsey Wright calls 3:37 p.m., January 24, 1994, message said you probably don't have any choice but to return Apple's call but you should either say 'I don't know, I wasn't there' or try to find someone who was. Typical, that's ridiculous, it is absurd, which you have gotten very good at. He would like you to keep her -- she would like you to keep her abreast of developments."

Do you know what this has to do with?

A It clearly is relating to some press inquiry that I thought he was mishandling. He got a very facetious message from me.

Q Whitewater press call probably?

A No. My guess is that that was about a campaign. He would drive me crazy when he would answer questions about campaigns he had never been anywhere near.

Q Just to get this out, Ms. Wright, you received a subpoena from the Senate Whitewater Committee, a document subpoena, a subpoena for documents; correct?

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A You guys?

Q Yes.

A Yes.

Q And as far as you know, all documents responsive to that subpoena have been turned over to the Committee?

A Yes.

Q Who is Maurice Smith?

A He is a man from Bird Eye, Arkansas.

Q What was his role in the Clinton Administration?

A He was executive secretary in '83 for about probably 18 months.

Q Is that what your position was, executive secretary?

A No. Chief of staff. Then he went to I believe the University of Arkansas board of trustees, and then he became the director of the highway commission, which was not actually hired by the Governor but by the commission.

Q I apologize for being somewhat scattershot about this. Prior to when -- there came a time when

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Mr. Hubbell turned the documents you had given to him over to Mr. Kendall. Did you review them before Mr. Hubbell turned them over to Mr. Kendall in 1993?

A No.

Q Do you have any idea where Mr. Hubbell stored the documents?

A No.

Q Did you ever discuss the fact that he was storing the documents with Mr. Hubbell during 1993?

A No.

Q Did you discuss the fact that Mr. Hubbell was storing these documents with anyone during 1993? Did you discuss the fact that Mr. Hubbell was storing certain boxes of documents that you had given him in '92 during '93?

A When did my boxes go to Mr. Kendall's office?

Q Probably sometime in November of '93, I would think, roughly. We don't know, November, December '93 is probably the best guess.

A I told one person that I had given my boxes to Web Hubbell during 1993.

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Q Who did you tell?

A Hillary.

Q When did you tell Hillary that you had given your boxes to Web Hubbell during 1993? Strike that.

When during 1993 did you tell Mrs. Clinton that you had given your boxes to Web Hubbell in 1993?

A When is Father's Day?

Q In June, I believe.

MR. COHEN: Yes.

THE WITNESS: It was probably a week or so before Father's Day.

BY MR. GIUFFRA:

Q This would be 1993?

A Yes.

Q Did Mrs. Clinton indicate to you why she was asking about or wanted to know --

MR. COHEN: She didn't say she asked.

BY MR. GIUFFRA:

Q Did you volunteer the information to Mrs. Clinton about where the boxes were?

A I didn't know where they were.

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Q You mentioned you had given them to Mr. Hubbell.
A Yes.
Q Did Mrs. Clinton ask you where the boxes were?
A No, I don't know that she knew anything about the boxes.
Q Did she raise the issue about the boxes?
A She asked me for information in one of the files. I told her I no longer had the files, I had given them to Web.
Q What was the information she was asking about?
A About Bill's father.
Q This is a genealogy question?
A Yes, because The Washington Post was fixing to run a story about siblings.
Q Did you describe in any kind of detail -- in describing that you had given the boxes to Mr. Hubbell, what did you tell Mrs. Clinton? Did you say you had given him all your files?
A That it was -- that I had kept it out when

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I left the campaign and that it was in boxes that I had given to Web.
Q Did you describe any further the boxes you had given to Web?
A No.
Q But was Mrs. Clinton aware that you had given to Mr. Hubbell your boxes containing Whitewater documents?
A No. That was clearly the first time she was ever aware that I had given my files from the campaign to Web.
Q The so-called Betsey files?
A Yes.
MR. COHEN: The improperly described, much abused, maligned files.
BY MR. GIUFFRA:
Q Sometime around Father's Day 1993 you advised Mrs. Clinton that you had given the so-called Betsey files you had generated to Mr. Hubbell?
A Correct.
Q And Mr. Hubbell was maintaining them at home -- strike that. I apologize.

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A I might actually have the circumstances mixed up sequencewise, because I know I also had a conversation with a woman who said that she was a half sister to the President. I did alert -- I did have a conversation with Bill and Hillary about that. It could have been -- I don't remember which came first.

Q But it was approximately sometime within two weeks of Father's Day 1993?

A No. The Father's Day issue comes up because The Washington Post was going to run a story about Bill's father and siblings.

Q Do you know if Mrs. Clinton contacted Judge Hubbell about these documents?

A I don't.

Q Have you had any discussions about Whitewater-Madison issues with Maggie Williams?

A No.

Q Do you know Maggie Williams?

A Yes.

Q I include within that the Rose Law Firm.

A Right.

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Q You do know Maggie Williams; right?

A I do.

Q Have you ever discussed anything having to do with the handling of the documents in Vincent Foster's office with Maggie Williams?

A No.

Q Let me show you some documents. This is a document that bears Bates number RS 381, and it goes to RS 722. It is a letter from David Kendall dated November 22, 1993 to Jerry Jones.

It says in part "I am enclosing herewith three file folders labeled Madison Guaranty Limited Partnership, Application Brokerage Activities, Madison Guaranty Net Worth, Preferred Stock Offering and Madison Guaranty Preferred Stock Offering Corporate, which were among the late Vincent Foster's files. They appear to me to be files of Rose Law Firm documents. I thought it most appropriate to transmit them to you for retention and storage."

Let me just show you these document and the cover letter and ask if you know anything about them. Take your time.

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(Witness examined the documents.)
MR. COHEN: Excuse me. What is the question? I take it the question is have you ever seen these before? Were they part of your campaign files?
MR. GIUFFRA: Correct.
MR. COHEN: Just so we have the question.
BY MR. GIUFFRA:
Q Have you ever seen the documents before and were they part of your campaign files. Take your time. It is just this fun chain of custody stuff.
(Witness reviewed the documents.)
A The letter from Beverly Bassett to Hillary of May 14 I have seen before.
Q Ms. Wright, of all the documents in this giant pile, which of the documents have you seen before?
A The letter from Commissioner Bassett of March something '85 to Mrs. Clinton.
Q That's the only document you have ever seen before?
A I believe so.

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MR. COLE: It is May, I think, just for accuracy.
THE WITNESS: Thank you. It was May.
BY MR. GIUFFRA:
Q That was a document in your files at the campaign?
A Yes.
Q And did you keep it -- was that part of the Betsey files at the end of the campaign?
A Probably.
Q When we refer to underlying documents, that's an underlying document and the only one you are aware of?
A That I recall.
Q You don't know anything about how any Madison Guaranty client files -- do you know anything about how any Madison Guaranty client files were removed from the Rose Law Firm?
A No.
Q Do you know that any Madison Guaranty client files were removed from the Rose Law Firm?
A No.

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Q Do you know what Mr. Kendall was talking about when he said these files were among the late Vincent Foster's files?
A No.
Q When did you learn -- did there come a time that you learned that a search warrant had been executed with regard to Capital Management Services in Little Rock?
A In the press.
Q Let's turn to Whitewater and your knowledge of Whitewater.
MR. COHEN: That will be short.
BY MR. GIUFFRA:
Q You testified that you knew Jim McDougal; correct?
A Yes.
Q And you knew that he was a friend of the governor?
A He had been on his staff, yes.
Q Did you know Susan McDougal?
A Yes.
Q How did you know Susan McDougal?

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A She had been on his staff.
Q When was Susan McDougal on the Governor's staff?
A In his first term.
Q What was her position on his staff?
A I don't know. I wasn't there.
Q Now, was Susan McDougal a friend of Governor Clinton's?
A I never know what people mean by the word "friend." Bill Clinton has 4,372,000 friends. They were both former staff people, well acquainted. They weren't social friends.
Q Do you know whether Governor Clinton ever met with Jim McDougal? We have already discussed that.
A Yes, we have. Did you forget? Your memory is shorter than mine.
Q Do you know whether Governor Clinton ever met with Susan McDougal?
A I don't know.
Q Do you know whether Mrs. Clinton ever met with Susan McDougal?

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A I don't know.
Q Do you know whether Susan McDougal ever visited the Governor's mansion?
A I know she was invited to events we did there, so I assume she did.
Q Do you know whether Governor Clinton ever visited the McDougals' home?
A I don't know.
Q But you would not describe Susan McDougal as a social acquaintance of the Governor?
A No.
Q And you don't know about any meetings or contacts between the Governor and Susan McDougal?
A I know that she was at the Madison Guaranty fundraiser in '85.
Q Anything else? Are you aware of any other contacts of any nature between the Governor and Susan McDougal?
A Not specifically. I think I saw her at some function at the Governor's mansion once.
Q Do you have a general recollection of any contacts between --

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A And also when Jim McDougal was running for office, they all would have been at the same rallies and stuff at the same time.
Q Do you have any other recollection of any contacts, do you know of any contacts between the Governor and Susan McDougal?
A Not specifically.
Q In general.
A I don't know -- none specifically come to mind.
Q Excuse me?
A None specifically come to mind.
Q Generally?
MR. COHEN: We went from generally to specifically and back to generally.
Do you know about any meetings or contacts between Susan McDougal and President Clinton?
THE WITNESS: There must have been contacts. I can't sit here and tell you when they were or what the nature of them were.
BY MR. GIUFFRA:
Q You would not describe Susan McDougal as a

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social acquaintance of the governor?
A No.
Q Or friend of the governor?
A I would as a friend. All of his former staff I would call friends.
Q When did you first learn that Governor Clinton and his wife had an investment in Whitewater Development Corporation?
A When I asked what Whitewater was while we were filling out the disclosure form.
Q When was that?
A It must have been in the '83 disclosure form.
Q Why do you say it must have been?
A That would have been the first one I would have worked with.
Q What did the Governor tell you about his investment in Whitewater Development Corporation?
A That it was a development thing of McDougal's.
Q Did he indicate to you that he and Mrs. Clinton were 50/50 partners in Whitewater

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Development Corporation?
A No. Just that they had invested in it.
Q Did he indicate whether they had invested any money in Whitewater Development Corporation?
A Yes. That's what they invested in it.
Q There is a difference between being a signatory on a note and actually taking money out of your pocket and investing it into something.
MR. COHEN: The question must be is that a detail he got into with you, because that was just a statement in the question.
BY MR. GIUFFRA:
Q Did he get into more than that, other than they had invested in Whitewater Development Corporation?
A No.
Q In filling out the form, you obviously had to list what the value of the asset was; is that right?
A No.
Q Just had to list that he had an investment in Whitewater?

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A As I recall.
Q Nothing more than that?
A I believe that's correct.
Q Your knowledge did not go beyond the fact that he had an investment in Whitewater Development Corporation with Jim McDougal?
A It might have shown up on the financial statements we filed with the bank when we took out campaign loans.
Q Do you recall seeing it on --
A I don't.
Q Were other members of the governor's staff aware of the fact that the Governor and Mr. McDougal had a business relationship or were partners in an investment?
A I don't know. Those were -- the disclosure statements were obviously public documents. So the newspapers nearly always wrote Whitewater Development Company or something.
Q Did they indicate who was his partner in Whitewater Development Corporation?
A I don't think so.

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Q Did other people know he and Jim McDougal were investors in Whitewater Development Corporation?
MR. COHEN: To your knowledge.
THE WITNESS: I don't know.
BY MR. GIUFFRA:
Q Did you ever hear -- strike that.
Now, did you ever discuss -- strike that again.
Other than this first conversation where the Governor indicated to you he had an investment with Jim McDougal in Whitewater Development Corporation, do you recall any other conversation you had with Governor Clinton about his investment in Whitewater Development Corporation?
A It was a loser, and they were trying to get out of it.
Q When did you have conversations with the Governor that the investment was a loser?
A My whole life.
Q He was constantly complaining about the fact that --

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A No, but every time it came up, the impression was that this was something that was a loser and they were always trying to get out of as long as I was there.
Q This would be from '83 until when? 'Until 90?
A '81.
Q From '81 until '90 he was indicating to you their investment in the Whitewater Development Corporation was a loser and they wanted to get out?
A Yes, but we didn't have long in-depth discussions. You articulated it far more clearly than our conversations from which I inferred impressions.
Q Why don't you state the conversations.
A I articulated to you the impression I inferred. I don't recall specific long conversations. It was just this was something to dismiss. It was one of those pesky things in their life to get rid of.
Q Do you know whether Governor Clinton ever discussed the extent of his investment in Whitewater

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Development Corporation with you?
A I don't know.
Q Did he ever indicate to you that he lost money as a result of his investment in Whitewater Development Corporation?
MR. COHEN: She just told you that that was her impression, that it was a loser.
THE WITNESS: That's correct.
BY MR. GIUFFRA:
Q Did he indicate he lost money? You can just be flat, for example.
A I didn't know that. I assumed it meant whatever they invested was gone.
Q Do you recall anything further about any conversations you ever had with Governor Clinton about Whitewater Development Corporation?
A Not specifically.
Q Generally?
A I --
MR. COLE: For me at least it would be helpful to distinguish between discussions prior to the time this became an issue in the 1992

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presidential campaign and discussions after.
MR. GIUFFRA: I am happy to do that.
BY MR. GIUFFRA:
Q Between 1981 and the 1992 presidential campaign, what more do you recall about discussions you had with Governor Clinton about his investment in Whitewater Development Corporation?
A Just that at one point he thought they were out of it. Then we found out they were weren't out of it and had to file a supplemental disclosure.
Q Do you recall approximately when he thought they were out of it?
A No.
Q Did he ever discuss with you anything having to do with Whitewater Development Corporation and his income taxes?
A I never discussed his income taxes with him other than making certain that they were filed on time and that when we did disclosures that we had complete sets. I just don't remember discussing the substance of them with him.
Q Did you ever discuss with Mrs. Clinton the

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Clintons' investment in Whitewater Development Corporation?
MR. COHEN: Can we have the same caveat? I say that because we have exhaustively covered the 1992 campaign discussions about this.
MR. GIUFFRA: To some extent.
THE WITNESS: Not that I recall. It is not outside the realm of possibility. But that is not who I discussed his disclosures with.
BY MR. GIUFFRA:
Q Your conversations were generally in the context of his gubernatorial financial disclosures?
A Correct.
Q Did there come a time in July of 1986 when you learned that Madison Guaranty was in serious trouble and that the Federal Home Loan Bank Board of Dallas was conducting an examination and was very concerned about Madison Guaranty?
A Yes.
Q What do you recall learning about that?
A Just that the commissioners alerted us.
Q By commissioners, you mean Ms. Bassett?

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A Yes.
Q Did Ms. Bassett call you on the telephone?
A No, no. She sent information through the liaison, Sam Bratton.
Q Do you recall anything more about the information she sent to you?
A I have recently reviewed the document, if that's what you are asking me.
Q Let's take a look at the document. It is CCBW 884 through 887.
(Witness examined the document.)
A And of course you have these from Mr. Kendall also.
Q Could be. I'm not entirely sure.
A I'm giving you copies of what I gave him earlier.
MR. COHEN: I bet you have it from others as well.
MR. COLE: Mr. Kendall produced a copy.
BY MR. GIUFFRA:
Q These were documents you had during the campaign or was this a document you generated when

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you went out to Little Rock in '94 that you obtained in Little Rock in '94? When was the first time you had this document in your possession other than back in '86?
A I'm not able to tell you that. I have forgotten whether I had it in '92 or whether it was just among the things that we located in the '94 search.
Q Again, just to clarify the record, I would consider this to be an underlying document.
A Oh, okay.
Q When you indicated -- I believe you indicated the only underlying document you had in your campaign files you were aware of was the letter from Ms. Bassett to Mrs. Clinton in May of '85. You are not aware of any other original documents?
A Not that I'm remembering right now. The commonality of those of course, they were both from the state agency.
Q That's correct. Do you remember during the campaign making any effort to obtain documents from state agencies, '92 campaign, that is?

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A Sure.
Q Did you direct anyone to obtain documents from state agencies during the '92 campaign?
A I frequently would request public documents that I needed according to whatever we were being asked about, information I was compiling.
Q Do you recall asking for this document during the '92 campaign?
A No, I don't.
Q What do you recall about -- did you get a copy of this document when you were chief of staff to the Governor, this Bratton --
A I saw this document, yes.
Q What do you recall about it?
A That it was yet another savings and loan in bad trouble, that this one was an alert not because of impending danger to state deposits but impending danger of McDougal blindsiding Bill Clinton.
Q Why did you think McDougal might blindside Bill Clinton?
A No more so McDougal than other people. But a lot of times people called Bill directly on stuff

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that I had to warn him about.
Let me just add, and I know he did not ask this, this was the procedure of our agency directors and department heads to alert us to issues that would become public that we had state responsibility within, that the Governor had executive responsibility decisions to make or that impacted him, friends of his that might try to go to him.
I pretty much would say all three of them are combined in this. It was a routine alert from an agency director.
Q Was this alert, though -- was your office alerted every time a savings and loan got an examination that was a negative examination?
A If it was in danger of being shut down, yes.
Q You would have been notified?
A Yes. And during this period of time, there were a number. This was hardly the first.
Q There there were a number of S&Ls -- strike that.
This was the normal practice of Ms. Bassett

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to send --
A Of all state agency directors.
Q I want to focus on S&Ls. Was it the normal practice of Ms. Bassett to alert the Governor's office whenever a state S&L was in serious trouble?
A Correct.
Q Yes.
MR. COHEN: That is also her testimony, yes.
BY MR. GIUFFRA:
Q Now do you recall any -- was this done just so that the Governor would be alerted to the problems that might be -- strike that.
Do you recall any press contacts that you received about Madison Guaranty in July of '86?
A I don't recall.
Q Was that a reason why Ms. Bassett was alerting you?
MR. COHEN: You have to ask Ms. Bassett why she was alerting her.
BY MR. GIUFFRA:
Q Do you have any understanding why

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Ms. Bassett sent this note over?
A It is very clear there was an institution in great jeopardy, a financial institution in the state in great jeopardy and that an acquaintance and friend of his was involved in it.
Q Do you know why Ms. Bassett indicates in this note "because of Bill's relationship with McDougal"?
A Because she knew that McDougal had worked for Bill.
Q And was it widely understood that McDougal had a relationship with Governor Clinton?
A Yes. He had made a Congressional race and talked a lot about working with Clinton and Fulbright and whatever.
Q After you received -- was it the normal practice in the office that memos such as this would be routed from Mr. Bratton to you and then maybe to the Governor?
A Correct.
Q Was this document routed to the Governor?
A Correct.

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Q Did you discuss this document? This would be the note from Ms. Bassett to Mr. Bratton. Did you discuss this document with the Governor?
A I don't recall any great discussion. It was just passing on the information.
Q What if anything do you recall about discussions you had with Ms. Bassett and the Governor -- with yourself and the Governor about Madison Guaranty in July of '86?
A I don't remember any until after action had been taken.
Q What was the action that was taken?
A They removed Mr. McDougal, the FHLB. I think Mr. Bratton and I probably together carried this to the Governor rather than my sending it in his normal mail.
Q Why would you have carried it to him?
A Just as part of the stuff to make sure he didn't miss in a stack of paper. We met with him very frequently, Sam and I, over general matters.
Q Did you have any discussions with Mr. McDougal during this period?

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A Not that I recall.
Q Do you know whether the Governor spoke to Mr. McDougal in July of '86?
A I don't know.
Q Did you have any conversations with Ms. Bassett about Madison Guaranty in July of '86?
A Not that I recall.
Q The sum total of this is you recall bringing the document to the Governor, advising him generally as to what was going on and that was it?
A I think so. That's all I remember about it.
Q You don't recall anything more?
A I don't recall any more.
Q Let me show you another document, DKSN 13309.
A Right.
Q This is what is called a route slip; is that correct?
A On which I frequently wrote memos, notes.
Q This was a note that you sent to the Governor in July -- July 14, 1986?

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A I'm not positive about the '86, but I assume.
Q What does JR mean across the top?
A That was our press secretary, Joan Roberts.
Q Did you send a copy of this to JR?
A Yes, after I had it back.
Q Why would you send it to him?
A Her. So that she could remind me not to include it on the next disclosure form.
Q And then --
A Or that if anybody asked about it, any press came up, that she would know that they weren't in that business.
Q The purpose of this -- why did you send this route slip to the Governor?
A Because I wanted to know if he was still involved in the Whitewater Development.
Q That was because the earlier notification you received from Ms. Bassett about McDougal being removed?
A Actually, I think McDougal had been

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removed. I think it was in response to his removal.
Q The removal occurred sometime between the 2nd of July and the 14th of July?
A I believe so.
Q That was in the newspapers that he had been removed?
A I don't believe it had been in the newspapers. But it was very commonly known in town.
Q How did you know he had been removed?
A Almost everybody knew it.
Q Do you know who told the Governor?
A Does this not refer to the date of a meeting?
MR. COHEN: Yes. The attachment --
THE WITNESS: The letter from Federal Home Loan Board.
BY MR. GIUFFRA:
Q A meeting on July 11, 1986 it talks about.
A I believe it was at that meeting that that board removed Mr. McDougal.
Q You were interested in finding out in light of the removal of McDougal on July 11, 1986 whether

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the Governor and his wife still owned stock in this Whitewater company?
A Yes.
Q Did you talk to the Governor about this?
A Yes.
Q The question was whether he still owned the stock?
A It shows how much I knew, because it wasn't stock.
MR. COHEN: It wasn't stock and he still had it.
BY MR. GIUFFRA:
Q It says "do you still have?" And then there is a parenthesis.
A Yes, "pursuant to Jim's current problems."
Q By that, you mean the fact that he had been removed?
A Yes.
Q Read the next line.
A "If so, I'm worried about it."
Q His note back to you is?
A "No, do not have any more."

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Q Do you know whether he checked with Mrs. Clinton before writing back to you?
A No, I don't know.
Q Have you ever asked him whether he checked with Mrs. Clinton in light of recent events?
A No.
Q When was the time that you discovered that he did still in fact own the Whitewater stock?
A I don't remember. I think there was some time.
Q You are telling me at some point after July 14 -- when were the disclosures normally filed?
A January.
Q Of every year?
A Yes.
Q Do you know whether you filed one the next year, January 1, '87?
A I know we filed one. I haven't pulled it out to review it.
Q You did omit Whitewater at one point?
A Yes.
Q And then you put it back on the disclosure?

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A Yes.
Q Do you know why you put it on?
A Because they discovered they were still involved.
Q Do you recall the circumstances under which they learned they still owned stock in Whitewater?
A I don't think it was stock. I think I was using the wrong terminology. That was before I owned stock, so I didn't know what it was.
Q It actually was a corporation. Did the Governor ever indicate to you that he had guaranteed some loans in connection with Whitewater Development Corporation?
A No.
Q Were you aware that he had outstanding liability with regard to some loans in connection with Whitewater Development Corporation?
A I was aware that Whitewater was an outstanding liability and maybe not in any strict financial record sense.
Q You didn't know anything more about the extent to which it was a liability?

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A No.
Q Do you know any more about the removal of Jim McDougal from Whitewater?
A No.
Q I mean from Madison. Excuse me. The answer is no?
A The answer is no.
Q Do you know whether McDougal ever attempted to contact the Governor?
A I do not. I do not recall.
Q Am I correct that McDougal was at least during the period maybe '82, 83, '84 a fairly wealthy person in Arkansas, at least appeared to be a fairly wealthy person in Arkansas?
A Yes. He had a lot of expensive toys.
Q Did there come a time when you learned that he was in serious financial difficulty?
A Yes.
Q When approximately was that?
A I don't know.
Q Mr. McDougal ultimately was indicted and prosecuted for bank fraud. Was that like 1990? Am I

correct?
A I believe that's about right.
Q When did you learn there was an investigation of Mr. McDougal for bank fraud?
A I don't recall.
Q Do you recall if it was a year before, two years before?
A No.
Q No recollection at all?
A No. Again the rumor mill in Arkansas works very actively.
Q You have no recollection -- he was kicked out of the bank in July of '86 and he was tried in 19 --
MR. COLE: Indicted in '89, acquitted in '90 is my recollection.
MR. GIUFFRA: Yes.
BY MR. GIUFFRA:
Q You don't recall specifically learning about --
A No, I don't.
Q Did the Governor ever discuss with you the

fact that Jim McDougal was indicted for bank fraud?
A We probably had a passing conversation about the tragedy that it had all come to this.
Q Do you recall anything more?
A That would be it.
MR. COHEN: Do you recall that conversation or are you speculating that it may have occurred?
THE WITNESS: I'm speculating. That is the kind of a natural conversation we would have had. I don't recall it specifically.
BY MR. GIUFFRA:
Q Do you know whether the Governor provided any assistance to Mr. McDougal's defense team in any way?
A No, I don't know.
Q Drafting opening statements?
A No.
Q Or reviewing -- reviewing drafts of opening statements or closing arguments?
A No, I don't know. Did he? Have you heard that he did?
Q No comment.

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MR. COHEN: Let him answer the questions.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q You don't recall -- let me ask you another question. Do you recall anything more about the trial of Jim McDougal?
A Just what I read in the papers every day during it. I don't remember those stories. It was just a very sad time.
Q Again, just to clarify this, I think I asked this again but want to make sure. I think you testified that you were aware that certain agents of the Clinton campaign, namely Mr. Blair, had spoken to Mr. Heuer during the campaign.
MR. COHEN: I don't think she identified Blair as the person who spoke.
BY MR. GIUFFRA:
Q Let's make sure it is clear. Was it your understanding some representatives of the Clinton campaign spoke to Mr. Heuer during the '92 campaign?
A Correct.

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Q You never spoke to Mr. Heuer?
A No.
Q Do you know whether any representatives of the campaign ever spoke to Mr. McDougal during the campaign?
A It seems like they did, but I don't remember specifically.
Q You don't know who the people would have been who would have spoken to Mr. McDougal or Mr. Heuer?
A Not for sure, and I'm only supposed to tell you things for sure. I'm not supposed to guess.
Q That's not entirely true.
MR. COHEN: You ask the questions. She understands if she knows, she should tell you. I have told her and I will tell her now, she shouldn't guess or speculate.
BY MR. GIUFFRA:
Q If you are guessing, you can say I'm guessing but I think. You can say that. That's fair if you qualify your answer. If it is a vague recollection, it is a recollection. If you say you

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don't have a recollection, which there has been -- you haven't had a lot of recollection.

I want to be sure when you say you don't have a recollection, that means you don't have a recollection at all about a subject matter you are being asked about.

A I have a vague recollection that Mr. Blair communicated with Mr. McDougal through Mr. Heuer, and I learned that after the fact.

Q You don't have any other knowledge with regard to communications between --

A No. It would have been foolish not to have had communications with Mr. McDougal given what was going on and swirling during the '92 campaign.

Q Do you recall any concern within the campaign about some of the things Mr. McDougal was saying to the New York Times?

A Do I remember concern?

Q Yes.

A Yes.

Q What do you recall about the concern that was being expressed about what Mr. McDougal was

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saying to the New York Times during the campaign?

A Just why was he saying these things.

Q Do you know if -- what was it that Mr. McDougal was saying that was causing consternation within the campaign?

A I forget the specifics. We would have to pull out the stories.

Q Do you know if Mr. Lyons met with Mr. McDougal?

A I don't know.

Q Or Mr. Heuer?

A I don't know.

Q But you personally did not meet with either person?

A No.

Q I will show you a document, Bates number S 12043-S 12046. Have you ever seen this document?

(Witness examined the document.)

A Yes.

Q You have seen this document?

A Yes.

Q When have you seen this document?

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A It was in my files.
Q This was in your files during the campaign?
A Yes.
Q It was addressed to you?
A No.
Q You had a copy of it during the campaign?
MR. COHEN: There may be an identical copy of this in our production. It looks familiar.
BY MR. GIUFFRA:
Q You have seen this document before?
A It was in my files that I gave to Web Hubbell that are in Mr. Kendall's office. I don't think it was in that other stuff, no.
MR. COHEN: It just looks familiar.
THE WITNESS: It was one of many things that had been written about stuff before I got there, when I was trying to catch up on what had happened. I was not yet at the campaign on March 11.
BY MR. GIUFFRA:
Q Do you know whether Ms. Lynch ever met with --
A From this it would indicate that yes, she

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was part of a meeting. But I don't have any personal knowledge of it.
Q Before you got there?
A Correct.
Q Was there discussion -- do you recall any discussion in the campaign about the fact that Mr. McDougal had given certain documents to Mr. Gerth relating to Whitewater?
A I don't remember specifically. We discussed so many things in the campaign.
Q No general recollection of documents that Mr. McDougal might have given to Mr. Gerth?
A No.
Q Do you recall any discussion during the campaign of trying to obtain documents for Mr. McDougal?
A Vaguely, but I don't remember anything about it.
Q Now, in the memo -- you may want to keep a copy in front of you, it says "he admitted that Susan McDougal and Hillary had their differences." Do you know what that refers to?

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A I don't.
Q Do you know of any differences between Susan McDougal and Hillary?
A I don't.
Q As far as you know, they got along fine?
A I don't know.
Q Just don't know one way or the other?
A No.
Q Then further on it does say, this is McDougal discussing his trial, "Sam said Bill helped me a lot; he even helped me prepare the opening statement."
You don't know anything about that?
A No.
Q Never heard that before until today?
A I obviously read this before and I just forgot it.
Q Do you know whether Mr. McDougal ever indicated an interest in obtaining a job in the Governor's administration in 1992?
A I know that he was -- I don't know if it was in '92. I know he was very -- he was destitute

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and he needed income.
Q Do you know whether anyone gave him any money?
A I don't.
Q Do you know whether Mr. Blair ever gave him any money?
A Other than what I read in the newspapers recently.
Q The $1000 he gave him to buy back the Whitewater investment of the Clintons?
A That's all I know about it.
Q Did you know about that at the time?
A No.
Q The first time you heard about it was when it was in the press?
A Correct.
Q Are you aware of something called lot 13 at Whitewater?
A Yes. It is a phrase that was very frequently used by friend and foe alike.
Q What do you know about lot 13?
A Just that it was a lot on the Whitewater

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Development land, and I forget all the ins and outs of it. I hope I never have to remember that.

Q Have you ever asked the Governor about how Mrs. Clinton's firm came to be retained by Madison Guaranty?

A No.

Q Have you ever asked Mrs. Clinton about how her firm came to be retained by Madison Guaranty?

A No.

Q Have you ever heard statements by Mr. McDougal with regard to Bill Clinton coming down to his office and asking him to send some legal work to Mrs. Clinton?

A I have heard that.

Q Do you know anything more about those? Did you ever investigate those claims by Mr. McDougal?

A No.

Q Do you know anything more about whether they are accurate or inaccurate?

A I am incredulous at them.

Q That's a word my boss likes to use.

So, as far -- you don't know anything more

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about those statements by Mr. McDougal with regard to the retention of the Rose Firm.

Do you know a man named Rick Massey?

A No.

Q Never spoke to Rick Massey?

A No.

Q Do you know a woman named Patricia Heritage?

A No.

Q Have you ever met a man named Chris Wade?

A I might have.

Q Who is Chris Wade, if you know?

A He was from northern Arkansas, I think maybe Madison County, and was I think a realtor who was somehow or another involved in buying Whitewater or something.

Q Do you know -- have you ever met Mr. Wade --

A I may have met him. I don't remember.

Q Did you ever discuss Mr. Wade with the Governor?

A If I did, it was in no context of

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Whitewater and Madison. It would have been that he was -- he was a major contributor in every campaign.
Q To the Governor?
A Correct.
Q Did you --
MR. COLE: Just perhaps to refresh Ms. Wright's recollection since this record undoubtedly will be scrutinized, there is some indication that Mr. Wade attended a fundraiser. You asked her a very broad question about whether she had ever seen Mr. Wade and I am trying to refresh her recollection.
MR. GIUFFRA: We will get to the fundraiser.
BY MR. GIUFFRA:
Q Did there come a time when you learned that the Clintons became concerned about what was going on with regard to their investment in Whitewater Development Corporation, probably '88-89?
A Well, yes. I mean, there was a lot of concern about Jim and obviously --
Q This was after he was kicked out of the

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bank?
A Yes. There was a sense that the guy was deteriorating mentally and had been for a decade.
Q You were aware of his indictment; correct?
A When it happened I was.
Q That was in '89. Do you recall -- to make sure the record is clear, between '86 and his indictment in '89, were you aware he was under any kind of criminal investigation?
A Just the rumors.
Q Do you recall when the rumors started?
A No.
Q '88?
A No. I don't remember when.
Q Was it a year before the trial -- before the indictment?
A I don't remember.
Q No recollection.
After Mr. McDougal got -- do you know anything about sales of Whitewater lots to Mr. Wade?
A Just that there were.
Q Nothing more. Did you ever discuss it with

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the Governor?
A No.
Q Never discussed it with Mrs. Clinton?
A No.
Q Do you know whether Mrs. Clinton ever attempted to obtain either a power of attorney for Mr. McDougal in connection with Whitewater?
A I know that from research information we put together.
Q During the campaign?
A Correct.
Q Let me show you a document, DKSN 12994. Take a look at the document.
(Witness examined the document.)
THE WITNESS: I need to go to the bathroom.
(Recess.)
MR. COHEN: The question is do you recognize the document.
THE WITNESS: I don't recognize it, though it does ring a bell, and it clearly is a document I saw.

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BY MR. GIUFFRA:
Q You saw this document in 1989?
A Correct.
Q Let's look at the notations. "BW Gov per," and it has a little notation. Is that a name?
A No. It says "personal file." It is Bill's handwriting to file the letter with his personal things which his secretary kept.
Q BW means you are supposed to see it?
A No. All things for him came to me.
Q You were the -- all the paper came through you?
A Correct.
Q So then you put it in a personal file for him?
A No. Then I sent it to him. He indicated that it was to go in his personal files with his personal papers. So, it did. Yes, I probably -- it probably came back for me, but not necessarily.
Q So that's the cc at the bottom where it says Bill Clinton. Hillary sends it over to Bill --
A The interesting thing is she obviously sent

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it through regular mail and it came through our mailroom and was logged in, stamped "received," got a log number so that we could trace it and make sure we answered it.

Q Did you ever discuss this letter with the Governor?

A No.

Q Do you recall anything more about it?

A It is just that generally there was a problem with Jim, and generally they had some extrication to do to make it clean. They were trying to be loving and respectful of his personal problems but take care of themselves. I think this is a masterful letter in that kind of approach.

Q Okay. Do you know Rosalee Wade?

A I may have met her.

Q Do you know anything more about her?

A That she is married to Chris Wade.

Q Anything else?

A No.

Q Do you know anything about Mr. McDougal's real estate development in Canada at Campobello

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Island?

A I was aware of it. I laughed about it.

Q Do you recall anything more about it?

A Do I recall any more?

Q Yes.

A Well, Jim McDougal is a story teller, and he loves Democratic history stories. He was all enamored with the idea that he had this connection with FDR, and he thought Bill Clinton should be as excited as he, et cetera.

Q You became document custodian of the Clinton gubernatorial campaign records in '94; right?

A Yes.

Q You hadn't been document custodian before that time; correct?

A Correct.

Q Do you know who was the document custodian?

A I don't know.

MR. COHEN: That presupposes that there was one.

MR. GIUFFRA: That's what I was kind of thinking that may well have been.

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MR. COHEN: Do you know if there was one?
THE WITNESS: I don't know.
BY MR. GIUFFRA:
Q Do you know Marlon Jackson?
A I do.
Q Who was the bank commissioner?
A For a while.
Q Do you recall approximately when he was the bank commissioner?
A No.
Q Do you recall the nature of his relationship with Governor Clinton?
A Long-time friends, acquaintances.
Q Were you aware that Governor Clinton had a loan with the Security Bank in Paragould, Arkansas?
A Yes.
Q When did you learn of that loan?
A Probably when I was helping them with the financial statements for our campaign bank loans.
Q What was that loan used for?
A I don't know.
Q Was it in way related to Whitewater

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Development Corporation?
A I don't know.
Q Do you know as you sit here today whether it was related to Whitewater Development Corporation?
A I believe that's what the story is.
Q Did you ever ask Governor Clinton about this loan?
A About what its purpose was?
Q Yes.
A No.
Q Did you ever ask him about it in any -- did you ever discuss this loan?
A No. Just whether he had paid it off, whether he was current, just the jobs you do to try to make sure taxes are filed on time, payments are made on time, et cetera.
Q Do you know -- let me show you a document, 289. It is a letter from Mr. Jackson to Charles Campbell.
MR. COHEN: Just a straight 289, no prefix?
MR. GIUFFRA: No prefix. It is dated

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November 1, '85.
(Witness examined the document.)
BY MR. GIUFFRA:
Q Have you ever seen this letter before?
A Yes, probably. It rings some bell.
Q When did you see it?
A I'm sure I saw it contemporaneously. It was again -- it again feeds to what I said of things being paid on time.
Q You think that Mr. Jackson would have sent a copy of this letter to the Governor? Do you recall seeing it in that capacity?
A I believe so, yes.
Q Do you know whether Governor Clinton spoke to Mr. Jackson about this extension agreement?
A I don't know about that. I do know that there was a time when I made certain they had a conversation about that loan, and I do remember now that I associated that loan with something that Bill had done to help McDougal or something. I don't know the specifics of it.
Q Do you know what the Governor had done to

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help McDougal?
A I do not.
Q Do you know why you called Mr. Jackson?
A No, I don't.
Q Do you recall why would you have called Mr. Jackson, as you sit here today?
A I'm sorry.
Q Do you know why you would have called Mr. Jackson?
A I don't.
Q Did you ever discuss the loan with the Governor?
A No.
Q Did you ever discuss the loan with Mrs. Clinton?
A No.
Q Was it normal for the banking commission to send letters to banks about loans that the Governor had outstanding?
A To his bank. Unfortunately, it was not normal. It was uncommon, and it was something he shouldn't have been doing, especially on state

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letterhead.
Q Was Mr. Jackson formerly employed by the Security Bank?
A Yes, that was his bank. He was the majority stockholder or something.
Q So, Mr. Jackson sent a letter on state stationery to the bank with regard to this loan that the Governor had; is that correct?
A Yes.
Q And the Governor knew about this?
A Who knows?
MR. COHEN: The question is do you know if the governor knew.
THE WITNESS: I have no idea.
BY MR. GIUFFRA:
Q Do you think the Governor knew about it?
A About which aspect?
Q About the fact that the banking commissioner was communicating with the Security Bank of Paragould about the fact of the loan outstanding.
A I'm sure he communicated with the bank. Whether he did it on state letterhead I doubt that

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Bill would have noticed.
Q Was Mr. Jackson the Governor's banker, personal loans, as far as you knew?
A I don't know that there were any other loans.
Q Did the Governor have any campaign loans with the Security Bank of Paragould?
A No, not during my --
Q Tenure.
A Right.
Q You would agree that it was improper for Mr. Jackson to have sent this letter on the state stationery?
A Yes.
Q Did you have a copy of this letter in your files during the campaign?
A I don't know.
Q Again, this would be an underlying document. You don't know whether you have this one?
A Underlying to what?
Q It would be an underlying document rather than a derivative document.

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A Yes. I don't know that I had that. I also don't know that I would have recognized anything to do with Madison or Whitewater on that.
Q Was the issue here that the Governor guaranteed a loan?
A I don't know the issue.
Q You don't know anything about it? Did you ever learn anything more about this loan?
A If I did, I forgot it. I could care less.
Q Let me show you another document. 290 is the Bates number. Have you ever seen this document before?
(Witness examined the document.)
Have you ever seen this document before?
A I don't know.
Q This is a letter from Mr. Jackson to Mrs. Clinton about the same loan dated March 27, 1987.
A Uh-huh.
Q You don't remember ever seeing this before? Do you think you would have seen it?
A I don't know of any reason why I would

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have.
Q You are unaware of any inquiries she had with regard to whether interest was paid on the note?
A That she had with --
Q Did you ever discuss with the Governor whether any interest was being paid on this note?
A No.
Q You don't know whether Mrs. Clinton had any concern about whether interest was being paid on this note?
A I know there was a concern because we knew that there had been some kind of lateness on it, and that was always of concern to me. I don't know -- it seems to me like they had thought it had been paid. I don't remember any specifics. I just -- I went into it only enough to be personally assured that this was being fixed and straightened out.
Q Here is a letter from -- here is a memo that has the Bates number -- it doesn't have the Bates number -- it is DKSN 13249.
A Where are you finding these Bates numbers?
Q It is years of practice.

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A Where is the Bates number? Oh, there.
Q You look at as many documents as I have, it is kind of like brain surgery.
Do you ever recall seeing this memo from Peggy to you?
A Not specifically, but I obviously did. It was addressed to me and it has my handwriting all over it.
Q Who is Peggy?
A She was a member of the staff, campaign staff.
Q It just says "do not let BC get too close to Jim McDougal." This is when Clinton and McDougal were running for election at the same time?
A Right.
Q And McDougal was running for Congress?
A Correct.
Q This was strictly a political concern about not being too close to McDougal; is that right?
A Correct. This guy felt McDougal was a liability.
Q In a political sense?

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A I'm trying to read my handwriting. These were out of our campaign files. This is interesting that you have it.
Q Can you read your handwriting in the right-hand corner?
A I can read it if it is there. I can't read that part that is not there.
Q What can you read?
A The impact -- the import of it was to call our county coordinator and see if this guy wanted to do a deal.
Q Who is Joe McCutcheon?
A Just a supporter in Fort Smith.
Q During the Governor's campaign, did you ever use cash in connection with get out the vote operations?
MR. COHEN: I'm going to object to that as beyond this resolution.
MR. GIUFFRA: It relates to the Bank of Perry County issue.
MR. COHEN: That loan was in 1990, which had nothing to do with that campaign. If you want to

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ask her if she ever used cash in connection with the Bank of Perry County, I would be glad to have her answer that question. Otherwise, it is beyond the resolution.

MR. GIUFFRA: Just to make a record, we would argue that it is relevant because it shows a pattern that was followed through for the '90 campaign. I'm not --

MR. COLE: Let me --

MR. GIUFFRA: I'm not looking to have an hour discussion about it.

MR. COLE: I want to state the Minority view. We would concur with Mr. Cohen's reading of it.

MR. GIUFFRA: He would instruct the witness not to answer any questions pertaining to using cash in connection with get out the vote campaigns.

MR. COHEN: In connection with --

BY MR. GIUFFRA:

Q You don't know anything about the use of cash in connection with the 1990 campaign?

A No.

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Q You don't know whether any cash was used in connection with the 1990 campaign?

A I know from press reports.

Q You were an experienced campaign worker in Arkansas. You ran the Governor's campaigns for 10 years.

A Not 10 years, but a long time.

Q Would you have expected cash to have been used during the 1990 gubernatorial campaign in connection with get out the vote operations?

A I knew nothing about the way the 1990 campaign was run.

MR. COHEN: I don't think you can turn her into an expert witness with this question, Mr. Giuffra. But it was a nice end run for which I will give you full credit.

MR. GIUFFRA: You are going to instruct her not to answer any questions based on her experience with regard to prior campaigns with regard to the use of cash in connection with get out the vote campaigns in connection with the 1990 campaign?

MR. COHEN: Yes.

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MR. GIUFFRA: Thank you, sir.
BY MR. GIUFFRA:
Q Did the campaign take out loans in '82, '84 and '86 at the Perry County Bank?
A No.
Q Did they take any loans out during the '80s?
MR. COLE: Again.
MR. COHEN: You can go first or I will go first. I have no objection to the Perry County Bank, just to establish it wasn't part of the prior campaigns -- the prior campaigns had no relationship with Perry County Bank.
MR. GIUFFRA: That's all I'm asking about.
BY MR. GIUFFRA:
Q It is your testimony that the Clinton gubernatorial campaigns took out no loans or Bill Clinton with the Perry County Bank in the '80s as far as you knew?
A Correct.
Q When did Bruce Lindsey start working on the Clinton gubernatorial campaign?

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A The first time he was ever really an official was the '90 campaign. He did some volunteer efforts in previous ones. I don't remember dates, years. There were so many of them, Mr. Giuffra.
Q Let's turn to the '84 campaign. You were the campaign manager in connection with the '84 campaign?
A Correct.
Q During the '84 campaign, did the Governor take out any loans to fund that campaign?
MR. COHEN: I have the same objection there.
MR. GIUFFRA: I can tell you exactly where it is relevant. It is relevant to the '85 fundraiser.
MR. COHEN: Go from the '85 fundraiser back. I know where you are going. If you start there, I will not object. You want to ask questions about to what extent the Madison fundraiser was used to pay off loans.
BY MR. GIUFFRA:
Q You are aware of an April 4, 1985

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fundraiser held at Madison Guaranty for the Clinton gubernatorial campaign; correct?
A I am.
Q Who organized that fundraiser?
A Jim McDougal.
Q Did the Governor speak to Jim McDougal about organizing that fundraiser?
A Probably.
Q Did you speak to Jim McDougal about organizing the fundraiser?
A No.
Q Do you know what other representatives of the Governor might have spoken to Jim McDougal about organizing the fundraiser?
A Our scheduling office.
Q This would have been done between the Governor and Jim McDougal, as far as you knew?
A Right.
Q So the Governor would have asked Jim to have a fundraiser for him in 1985?
A Or Jim may have offered to have one.
Q Now, what was the purpose of this

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fundraiser?
A To raise some political money.
Q And was there a financial deficit at the end of the '84 gubernatorial campaign?
A Yes.
Q What was the amount of that deficit?
A I don't recall.
Q About $30,000 or a little more?
A I don't recall. It was more than that.
Q Can you give us an approximate amount?
A I can't. I didn't go back and look at the records.
Q Did the Governor take out any loans in connection with the '84 campaign that were not paid off by April of '85?
A Correct.
Q Do you recall what bank the loan was with?
A Am I answering this?
MR. COHEN: Yes.
THE WITNESS: Bank of Cherry Valley.
BY MR. GIUFFRA:
Q Do you recall the amount of the loan?

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A No.
Q Do you recall the balance that was outstanding on the loan as of April '84?
A No.
Q Do you recall anything more about the circumstances surrounding this loan?
A No. I mean I have forgotten the details. I didn't refresh my memory on them.
Q Was this a personal loan to the Governor?
A Yes. All loans for campaigns had to be.
Q You don't recall how much the loan was for?
A No.
Q The Governor made, what, $35,000 a year?
A Correct.
Q You don't recall the amount of the loan?
A I don't.
Q You don't remember whether there was any security for this loan, or do you remember? Do you know if there was any security for this loan?
A I got into trouble in the press about this because it was clear I didn't know really what a secured loan meant. I know that we fulfilled the

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requirements, the normal requirements for a bank to make such a loan.
Q Were there assets backing the loan? Did the Clintons put up any assets to back the loan?
MR. COHEN: Hold as against payment of the loan.
THE WITNESS: I know we filed financial statements with the bank. That's all I know.
MR. COHEN: There were no assets pledged like a house or a car or a boat?
THE WITNESS: No.
BY MR. GIUFFRA:
Q It was an unsecured loan?
A I don't know the terminology.
Q Who ran the Bank of Cherry Valley at this point?
A Which point?
Q '84-85.
A Maurice's son might be running it then.
Q What was the name?
A Maurice Smith. It is Mark Smith. I don't remember who was running it, but one of the Smiths.

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Q You don't know anything more about the circumstances surrounding the making of this loan to the Governor?
A I would know a lot about the circumstances. I don't recall them. I didn't refresh my mind on the campaign financing stuff on the gubernatorial races that I ran because I didn't think that they were of interest to this Committee.
MR. COHEN: And it is not within Senate Resolution 120.
BY MR. GIUFFRA:
Q Did there come a time during the '80s when Maurice Smith was appointed to a position in the Arkansas government or a board?
A I have answered that.
Q What was the answer? He was executive secretary?
A And then he went to the University of Arkansas board of trustees and then became the director of the highway department.
Q Do you know when he became the director of the highway department?

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A I don't know.
Q Did you attend the fundraiser in April of '85 at Madison?
A I did.
Q Where was the fundraiser held?
A At Madison Guaranty.
Q This would be at the art deco main office of Madison?
A In the lobby.
Q The Governor was present at the fundraiser?
A Yes.
Q Was Mrs. Clinton present?
A No.
Q Now, when did the -- how much in advance of the fundraiser which was held I believe on April 4, '85 did the Governor and Jim McDougal discuss they were going to be having this fundraiser?
A I don't remember.
Q That's a long way of asking how much advance planning was there for this fundraiser.
A I don't know.
Q Was it an event that was put together

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rather quickly?
A I don't remember.
Q Was it put together a month or two in advance?
A I don't remember.
Q Let me show you a document, Bates number DKSN 13356.
(Witness examined the document.)
This is a memo from a Gatty to BC dated 3/26/85. Who is Gatty?
A Judy Gatty was the scheduling secretary at this time.
Q Do you think you would have seen this memo?
A Yes.
Q Do you recall seeing the memo?
A I certainly recall seeing it recently.
Q And --
MR. COHEN: Let's help you here. Is your handwriting on that memo?
THE WITNESS: I didn't look.
(Witness examined the document.)
THE WITNESS: No, but I was in on all

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scheduling decisions. There weren't scheduling documents that didn't go past me.
BY MR. GIUFFRA:
Q If you could read the Governor's handwriting. It says "good."
A "Really need at least an hour." The request was to come by for 30 minutes. What he was saying was that he needed at least an hour, particularly since Fulbright was going to be there and he wanted to visit. Fulbright, of course, was not there.
Q Does this memo refresh your recollection as to how much preplanning went into this fundraiser?
A No. It looks like it was -- this was not a big elaborate fundraiser with a dinner and invitations and all that.
Q It was put together rather --
A McDougal was raising money and he wanted an event where people could shake the Governor's hand for it.
Q Do you recall how much preplanning went into this fundraiser? Not very much?

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A No. It wasn't one we were putting on.
Q Were there other instances in which Jim McDougal raised money for the Governor that you are aware?
A No.
Q This is the only time you are aware of Jim McDougal raising money for the Governor?
A Correct.
Q Do you have any understanding as to what Jim McDougal's motives were for having this fundraiser?
A My major memory association is that he wanted the event partly because it would be fun to have Fulbright around. Mainly he was trying to forge an end of the cold war between Bill and Jim Guy. We had had nothing but tension still since the '82 primary with Jim Guy.
Q Do you remember a conversation with Mr. McDougal to that effect?
A No, I wouldn't have had a conversation with Mr. McDougal about that.
Q As far as you know, this was the only

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fundraising activity that Mr. McDougal ever did for Governor Clinton?
A Correct.
Q Do you know how much money was raised at this fundraiser?
A We left the fundraiser with $22,000. Subsequent donations were sent in that he collected up until the total was $30,500.
Q When you say you left the fundraiser with $22,000 -- strike that.
You left the fundraiser with $22,000. You mean -- after the fundraiser was over, did McDougal hand you the checks?
A I don't know if it was over. I got them from him.
Q That day?
A At the fundraiser.
Q He handed them to you?
A Correct.
Q Didn't hand them to the Governor?
A No.
Q Do you recall approximately how many people

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attended?
A I didn't know most of the people there. It seems to me like there were maybe 15 to 20 people and that they included perhaps some of the employees of the Madison Guaranty.
Q So maybe there were only 10 or 12 people at the fundraiser --
A Yes.
Q -- who were donors?
A Yes.
Q Was there any food at the fundraiser?
A Yes.
Q Do you recall anything about the food?
A I don't remember. It wasn't memorable food.
Q Did he have any music?
A No.
Q Did Clinton speak?
A No.
Q Didn't speak? Just came and shook hands and that was it?
A Yes, just visited with each person there.

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In the lobby they put up a refreshment table. I think they had wine and potato chips.
Q Did -- Senator Fulbright did not appear at the fundraiser?
A No. I was very disappointed.
Q What was the limitation, if any, for campaign contributions in 1984?
A $1500 per election.
Q So you could do 1500 primary and 1500 post-primary? You could give 1500 primary and 1500 for a general election?
A Correct.
Q Could you give 3000 in '85 after the general election had already been held? Is that permissible?
A Correct.
Q If somebody had already given 1500 and they gave another 3000, that would have been a violation of the election law?
A Yes.
Q As far as you know, did any of the contributors of the '85 Madison fundraiser violate

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the election laws with regard to the amount which they made contributions to the Governor?

MR. COHEN: I will object to that one. One, it calls for her to reach a legal conclusion. Second, this resolution does not contemplate, nor does its legislative history leave any question but that this area is not part of the Committee's resolution, that is, compliance with Arkansas election laws.

MR. GIUFFRA: This is one I beg to differ on.

MR. COHEN: We will respectfully differ.

MR. GIUFFRA: Whether she knows whether any of these were made in violation of Arkansas law is clearly a relevant fact. It is something I can assure you will come up at the hearing. It is something that falls within this resolution in any number of ways.

MR. COHEN: My recollection of the drafting of this -- and it is history and some of it is anecdotal, and some I suspect is memorialized in the record -- is that there was a desire to have

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basically compliance with Arkansas election laws as part of the ambit of this committee's work, and that was negotiated away, along with other things.

Consequently, the Madison fundraiser is included and I have no objection obviously. I have not objected to questions on that. In terms of compliance with Arkansas campaign law, that was not a -- moreover, you asked her for something that requires a legal conclusion which she is not capable of answering.

MR. GIUFFRA: First of all, with all due respect --

MR. COLE: I think this debate -- you can ask her about the amounts of money that were contributed, if she knows. That avoids the legal conclusion problem and gets the information.

MR. GIUFFRA: I probably know as much about the drafting of the resolution as any human being on the planet, and I don't remember any intent to exclude whether the contributions made in connection with the Madison Guaranty fundraiser were outside the scope of the resolution.

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I think quite clearly if you read the resolution it pretty much calls for any subject that has in any way bearing on Madison Guaranty. I can pull out the resolution.

MR. COHEN: What would the legislative purpose be for an inquiry into compliance with Arkansas campaign laws?

MR. GIUFFRA: "Conduct the investigation, public hearings into and study of all matters that intend to fulfill the full facts about the operation, solvency and regulation of Madison, activities, tax liability of Whitewater," and I think whether there were contributions that were made in violation of law at this Madison Guaranty fundraiser certainly falls within the resolution, section 1(b)(3)(a) and (b).

The other stuff I'm willing to --

MR. COLE: I think this is an unnecessary debate. I would agree with you --

BY MR. GIUFFRA:

Q Do you know as you sit here, have you been advised by anyone whether any of these contributions were made in violation of Arkansas law?

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A I don't understand your question.

Q You testified that Arkansas law had a limitation of $1500 primary and 1500 general; correct?

A Correct.

Q Do you know whether any of the contributors at the April 1985 Madison Guaranty fundraiser violated Arkansas law with regard to contribution limits in making their contributions in connection with this fundraiser?

A I know that none of those contributions exceeded the legal limits.

Q But when considered in connection with other contributions that those contributors made prior to the fundraiser, do you know whether there was a violation of Arkansas law in connection with those contributions?

A I know there was not.

Q You believe there was no violation. Have you attempted to ascertain whether there was any violation?

A I always did. I always checked to make

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sure people hadn't gone over a maximum.
Q You would have checked after this fundraiser to make sure no one had gone over the maximum?
MR. COHEN: I think I have given you more latitude than I had originally planned to in an effort to avoid this dispute. As to what she did in order to ascertain compliance with Arkansas election law thereafter I think is significantly beyond where you are entitled to go. I understand we disagree with each other, which lawyers do all the time.
MR. GIUFFRA: Read the last question back.
(The reporter read the record as requested.)
MR. COHEN: That's a question to which I would direct her not to answer on the grounds that I previously articulated.
BY MR. GIUFFRA:
Q During the '92 presidential campaign, did any issue arise with regard to whether contributions had been made in excess of maximum limits at this April '85 fundraiser?
MR. COHEN: Could I hear that back?

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THE WITNESS: Can I talk to you?
MR. COHEN: Certainly.
MR. GIUFFRA: Bathroom break for us all.
(Recess.)
MR. COHEN: I'm not going to withdraw my objection, but I will let her answer and will not waive that objection.
MR. GIUFFRA: You want to have the question read back?
MR. COHEN: The question is did you check afterwards whether the amounts were in excess of permissible limits.
BY MR. GIUFFRA:
Q And the answer?
A I did.
Q What did you ascertain? Were the checks in violation of contribution limits?
A They were not. If one of the donors had given the maximum for either of the previous elections, then the donation was allocated for the next election.
There has been a mistaken verbiage around

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this fundraiser that it was to pay off a debt. It was a political fundraiser. Some of the money was applied to the previous campaign where people had not contributed and applied to paying off that loan. The rest of the money was applied to current political expenditures and became allocated as 1986 campaign contributions.

MR. GIUFFRA: Off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q Do you know -- did Mr. McDougal solicit the contributions at this fundraiser?

A Yes.

Q Did anyone assist him?

A I know he arranged the fundraiser and the contributions. I don't know who asked the people or whether he delegated it out or had a joint activity.

Q Do you know whether the Governor Clinton made any phone calls in connection with this fundraiser?

A I don't.

Q Do you know -- did Jim Guy Tucker attend

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the fundraiser?

A Yes, he did.

Q Did he speak at the fundraiser?

A There weren't speeches.

Q Senator Fulbright was not present?

A Correct.

Q Do you know anything about whether any Arkansas state departments, agencies or instrumentalities ever leased any real property from any entity controlled or owned by Madison? That's a very --

A Why don't you ask me what you want to know?

MR. COHEN: We both understand what you really want to ask. Why don't we now move to talk about that.

BY MR. GIUFFRA:

Q What do you know about any state leases involving Madison Guaranty?

A I am aware that ADFA leased office space for Madison Guaranty.

Q Do you remember when that was?

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A I don't remember years. I'm sorry.
Q Was it '86?
A I don't remember years.
Q '87?
A I don't remember years. I would have to have the documents in front of me. You are the one who has those with the numbers.
Q Do you have any other knowledge with regard to, just independently without looking at documents, any ADFA leases involving Madison?
A I do. I remember fairly distinctly the decision for ADFA to move to the Madison Guaranty building.
Q This is the building where the fundraiser was held?
A That's correct.
Q This was after the bank had -- after McDougal was removed from the bank?
A Those things were not related, so I don't know that I linked them up.
Q The main ADFA -- the main Madison headquarters became the ADFA headquarters; is that

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right?
A I think they just leased part of the building, some office space in the building.
Q What do you recall about the leasing of that office space to ADFA, other than the mere fact that it was leased? Do you know whether the Governor was involved at all in the decision to lease the office space to ADFA?
A No. We didn't make decisions about leasing, particular leases, and it would have been state building services who matched available space and people who were desirous of having state leases with agencies.

At some point we became aware in the Governor's office that ADFA looked like a match for some space at Madison. I don't recall whether the Governor -- I rarely informed him of routine state business matters like that.
Q How did it come to your attention that there might be a match between Madison and ADFA?
A It came to my attention because there was some resistance on the part of ADFA to moving there,

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and this all stemmed from a policy of the Governor's that all things being equal and where economically feasible, that we would help keep downtown Little Rock alive.

Sometimes agencies didn't particularly want to be in downtown Little Rock, and I would have conversations with the agency directors or department directors about what the problems were, and state building services would be working with the owners to see if they could be accommodated.

Quite frankly, in many cases, the concern was racist in its bearing, and it was in part my responsibility to try to determine and ascertain where that was the barrier, because that was one we weren't going to allow to be a barrier.

Q Do you recall any discussion of any kind of leases in Madison, state leases in Madison at this fundraiser or about the time of the fundraiser?

A No.

Q Did you ever tell Bruce Lindsey that Bill Clinton organized the fundraiser with McDougal?

A No.

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Q Did you ever -- you discussed the '85 fundraiser with Mr. Lindsey; correct?

A Right.

Q What do you recall telling him about this fundraiser?

A Actually, I think our discussion was about questions we were being asked and assertions that were being made around the fundraiser. The discussion was a takeoff from there.

It wasn't like I said today's thoughtful topic I would like for us to discuss is a fundraiser that was held at Madison. It just didn't happen that way. It happened about a conversation around a specific assertion.

Q Now, were you aware of the fact that a number of the contributions at this April '85 fundraiser were in the form of cashier checks?

A Yes.

Q What do you know about the making of these cashier's checks?

A Nothing.

Q You just got the checks and left the

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fundraiser; correct?
A Correct.
Q Do you know anything about the cashier's check made out in the name of J.W. Fulbright for $3000?
A I know that we received one.
Q That's all you know about it?
A And that I deposited it.
Q Nothing more?
A That's correct.
Q You don't know whether Senator Fulbright approved of the issuance of this cashier's check?
A I had no reason to believe otherwise.
Q Did you ever check into whether he approved into the issuance of this cashier's check in his name?
A No.
Q Do you know a man named Mr. Peacock?
A No. I mean, I do know a man named Mr. Peacock, not that Mr. Peacock.
Q Do you know the Peacock I'm thinking of is Kenneth Peacock?

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A I don't know him.
Q Do you know whether there was a cashier's check in the name of Mr. Peacock at this fundraiser?
A I do know that there was.
Q Do you know anything about that cashier's check?
A Just what I read in the newspapers recently.
Q You don't know whether Mr. Peacock attended the fundraiser?
A I don't.
Q You don't know who he was?
A I don't know.
Q Do recall any of the people who attended the fundraiser? I guess you testified Mr. McDougal was there.
A Yes.
Q Was Susan McDougal there?
A Yes.
Q Jim Guy Tucker was there?
A Yes.
Q Was Mr. Wade there?

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A I don't recall. I don't believe he was. I think his was one of the checks we got subsequent to the fundraiser. So, that's why I'm assuming he wasn't there.

Q This is after the fundraiser?

A Yes.

Q If I gave you a list of the persons who contributed, could you tell me who contributed at the fundraiser? Would that be based on the date of the check or you are not sure?

MR. COHEN: If that's a piece of information you want, if you give us the documents we produced to you on the subject, it may be easier than something you assembled.

MR. GIUFFRA: I just want to identify the checks that came before and after. That's a fair thing; right?

MR. COHEN: Okay. If you give us those documents, we will do it for you promptly.

MR. GIUFFRA: I want to make sure I am not going too far.

BY MR. GIUFFRA:

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Q I will give you everything. Tell me which checks you got at the fundraiser and which you got after the fundraiser.

MR. COHEN: We produced thank you notes. Can we have those, please.

MR. COLE: Let's go off the record until we find the documents.

(Recess.)

BY MR. GIUFFRA:

Q Ms. Wright, in looking at your records, what can you tell us about when the checks were received in connection with this fundraiser?

A I believe that the ones that I left the fundraiser with were David Henley, Brett Ferris, Jim McDougal, Smith Imports, West Arkansas Construction, Larry Kuca, Robert and R.D. Randolph, James Henley, Dean Landrum, County Cable TV, Ken Peacock, J.W. Fulbright.

I believe that a subsequent mailing enclosed the Chris and Rosalee Wade and the Eugene and Alice N. Harris. And then yet a subsequent arrival included John Latham and Pat Harris.

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Q The first mailing that would have been just a mailing from McDougal to you or to the Governor?
A It actually came -- we had been working with McDougal's office to try to get addresses for the thank you letters, and when the note arrived, it makes reference to enclosing Mrs. Harris's check, and because of the placement here, there is a very good chance that the Wade check was also in that envelope.
Q That is BW 35? That's the document that we are looking at. CCBW 35, that's the basis for that. That's a letter from Ms. Straithairn to the Governor's office?
A Yes.
Q Ms. Straithairn was Mr. McDougal's secretary?
A If you say so.
Q You don't know?
A More than likely it would be someone in his office we were working with to make sure we had addresses for thank you letters.
Q The second set of checks you received, is

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that based on the dates of the checks? What is the basis for you thinking that's when those came out?
A They were in a subsequent deposit.
Q That would be the Hamilton, Latham and Harris checks?
A Correct.
Q I want to try -- those three checks -- that's on page BW 39.
A Correct.
Q There are some other checks that appear on later --
A They have nothing to do with the McDougal fundraiser.
Q 40 through 44. What do these checks have to do with?
A We were raising money from other people all the time. Most of the bank loan was paid off with money from other people. This is just other money that we received.
Q So, these other checks --
A Jim McDougal was not our major fundraiser.
Q These other checks that you produced -- I

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want to try to understand why you produced them.
MR. COHEN: They could have been produced but they were part of the deposit.
BY MR. GIUFFRA:
Q These were made in connection with the deposit.
A There are two deposits that include checks of money raised by Jim McDougal.
Q One is 4/29/85 and on Bates BW 16 there is a second for 18,165 and that is dated 5/28/85. That also contained some McDougal checks; correct?
MR. GIUFFRA: Off the record.
(Recess.)
BY MR. GIUFFRA:
Q Mrs. Wright, did there come a time when you learned that the 1985 Madison fundraiser was the subject of an RTC criminal referral?
A I don't know that I ever learned that. I tell you what I do remember, and it was either a reporter asking me about it or from press reports, though I do think I got asked about it before it showed up in the press, was that that campaign

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committee had been included in the referral.
Q Do you know who told you?
A A reporter. I don't know.
Q Not Mr. Lindsey?
A No.
Q Did you ever discuss with Mr. Lindsey the fact that the Bill Clinton campaign committee was listed as a suspect in an RTC criminal referral?
A Discuss is probably an overstatement of what -- there was an acknowledgment between us that that was the case.
Q Do you recall when that was?
A No.
Q Did you ever discuss the fact that the Clinton campaign committee was listed as a suspect in an RTC criminal referral with President Clinton?
A I don't believe so.
Q Mrs. Clinton?
A I don't believe so.
Q Maggie Williams?
A No.
Q Susan Thomases?

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A No.
Q Bernie Nussbaum?
A No.
Q Have you ever discussed anything relating to Madison or Whitewater with Bernie Nussbaum?
A No.
Q But you know Bernie Nussbaum; right?
A Yes.
Q You were not involved in the '90 campaign; correct?
A Correct. Well, I was not in the campaign per se. I was the state party chair. So, I was campaigning on behalf of the ticket. I did during the general election -- after I had become the party chair, I did go to some of the strategy meetings.
Q Were you aware of the fact that Governor Clinton had taken out some loans with the Bank of Perry County?
A From the newspapers.
Q But you never discussed it during any campaign meetings?
A No. I wasn't involved with the finances of

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that campaign.
Q Was there any discussion, do you recall, in connection with the 1990 campaign of get out the vote drives?
A No.
Q Do you recall any discussion of needing cash to fund get out the vote drives?
A What do you mean?
Q Do you recall any discussion during any of the meetings you attended during the 1990 campaign about use of cash in connection with get out the vote drives?
THE WITNESS: Can I talk to you, please?
MR. COHEN: Of course.
(Witness conferred with counsel.)
BY MR. GIUFFRA:
Q Go ahead, Ms. Wright.
A I proposed to Mr. Lindsey that the Clinton campaign allow me to coordinate the get out the vote for the ticket so that I could approach the other nominees and everybody pooled their get out the vote resources so there wouldn't be so much duplication.

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That proposal was not considered, and so we never talked in detail about it.

MR. COHEN: It is not technically responsive, but I don't want to have to beat around the bush.

BY MR. GIUFFRA:

Q Do you recall any discussion about the use of cash in connection with the Governor's get out the vote drive in the '90 campaign?

A Not past what I just mentioned.

Q Do you know whether cash was used in connection with the --

A From the newspapers I know that. I was not involved -- I have no firsthand knowledge.

Q Do you have any belief as to whether cash was used in connection with the '90 campaign?

A I --

Q Was used in connection with get out the vote drives?

A I have read facts that they did.

Q You learned that from newspaper accounts?

A Yes.

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Q Did Bruce Lindsey ever discuss whether cash was used in connection with the '90 campaign with you?

A No.

Q You have never discussed with Mr. Lindsey -- I want to make sure we have this right. You never discussed with Mr. Lindsey whether cash was used in connection with get out the vote drives in the '90 campaign?

A After the fact I might have.

Q Do you recall anything about those discussions?

A I have to tell you that I don't remember whether I actually said to him what I thought or whether I was just having these conversations inside my head.

Q What do you think you said?

A That they were stupid in the way they handled it, and they should have let me do it.

Q Why were they stupid in the way they handled it?

A I mean, you know full well how they handled

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it as much as I do.
Q I actually don't know how they handled it. What is your understanding as to how they handled it?
This is squarely within the --
MR. COHEN: I didn't object. As you go through this, explain where you have your understanding from.
THE WITNESS: If the press accounts are accurate about the amount of cash that they withdrew from the bank, then I find that excessive and curious in manner.
BY MR. GIUFFRA:
Q Why do you find it excessive and curious in manner?
A Excessive in amount and curious in manner and that's all.
Q Why do you believe it was excessive in amount?
A I mean, what do I know? I wasn't doing get out the vote in 1990.
Q That amount of money based on your

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experience in Arkansas campaigns for governor seems to be excessive?
A Four years earlier I hadn't spent that much money.
Q How much money did you spend?
A I don't remember.
Q How much money do you understand they spent in the '90 campaign?
A I don't remember.
Q Do you have any understanding as to what use the money would be put to?
A Sure.
Q What would it be used for?
A Hiring get out the vote workers in targeted districts and communities.
Q Would any of the money have been used to, for example, be given to ministers of churches?
A Only if they were get out the vote coordinators.
Q They would --
A Not because they were ministers but because they were organizers.

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Q What would they do in exchange for this money? Would they give the money to the people they would hire to run it?
A It differed according to the way they organized. Some hired crews of people.
Q What would other people do?
A What would other people do? Personally go and get people to the polls and drive them.
Q And be paid for it?
A Well, get expenses for it. I don't know that there was any wages involved in this.
Q What is your understanding as to the amount of money that was used to fund the get out the votes drive in the '90 campaign?
A I don't remember. I just have an impression.
Q What is your impression?
A It was a lot of money.
Q How much? 50,000, 30,000?
A Yes, those are good numbers.
MR. COHEN: Are those the numbers that you got the impression of from the newspaper?

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BY MR. GIUFFRA:
Q Or have you spoken to Mr. Lindsey about it or someone else?
A I have never had a discussion with Mr. Lindsey about the amount of get out the vote or how they did it in the 1990 campaign.
Q You also thought it was curious or at least it was not a good way to handle the get out the vote money?
A No. The withdrawal.
Q What was the mistake that was made in your opinion or how could it have been done better?
A I didn't say could be done better. I thought it was curious.
Q What is your understanding as to how these withdrawals were handled?
A That separate checks were written on the same day at the same time or something like that. I don't know the facts of the situation at all.
Q How do you think it should have been handled?
A I can't project --

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Q You testified --
A I said I found it curious. I can't sit here and tell you how they should have done it.
Q Based on how it had been done in past years --
A Based on my sole knowledge of it, I found it curious.
MR. COHEN: She hasn't described what she found curious.
BY MR. GIUFFRA:
Q You think it should have been done different days at different banks?
A No.
MR. COHEN: You don't mean that as a serious question, I suspect.
BY MR. GIUFFRA:
Q How could it be done in a different manner based on your experience in Arkansas political campaigning?
A I don't know about the 1990 campaign and how they could have done it in a different manner.
Q How was it done in prior years?

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A I am not discussing prior years.
Q Do you know Neil Ainley?
A I may have met him.
Q Have you ever met him, ever had any conversation with Neil Ainley?
A No.
Q Do you know Herb Branscom?
A Yes.
Q Who is Herb Branscom?
A He was the chairman of the Arkansas Democratic party during the '82 campaign. He lives in Perryville and he practices law there and he was an official in the Perry County Bank. We appointed him when I was in the Governor's office to the University of Central Arkansas board of trustees, I believe. I hope that's right. It was one of the colleges. I think it was UCA.
After I left the Governor's office, he resigned that position and was appointed to the highway commission.
Q The highway commission?
A Correct.

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Q Do you know Mr. Robert Hill?
A I have met Rob Hill, yes. He was a county coordinator for us in Perry County.
Q For what campaign?
A Several of them. I don't recall what years.
Q Have you discussed with Mr. Branscom anything having to do with the '90 campaign?
A None.
Q Mr. Hill?
A None.
Q You indicated your proposal for doing the get out the vote operation was rejected. Do you recall why it was rejected?
A I have no idea that it was rejected. I think what I said was it was not considered.
Q Why was it not considered?
A I do not know.
Q Have you ever discussed with Mr. Lindsey the campaign's failure to file cash transaction reports in connection with withdrawals made from the Perry County Bank during the '90 campaign?

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MR. COHEN: We ought to at least get clear that the person who was -- Lindsey wouldn't be required to file a cash transaction or the. It was the failure of the bank to file it.
MR. GIUFFRA: I apologize. It is getting late. I'm getting tired.
BY MR. GIUFFRA:
Q Have you ever discussed with Mr. Lindsey the failure of the Perry County Bank to file required cash transaction reports in connection with the '90 gubernatorial campaign?
A No.
Q Do you have any knowledge with regard to the failure of the Perry County Bank -- has anyone ever discussed with you the failure of the Clinton campaign -- strike that. I apologize.
Has anyone ever discussed with you the failure of the Perry County Bank to file cash transaction reports in connection with the 1990 Clinton gubernatorial campaign?
A No.
Q You have no testimony to offer to the

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Committee on that subject?
A No.
Q Do you want to talk to your lawyer?
A People in discussing newspaper stories would ask me what do you think this means, what happened, but they weren't connected with the campaign. It is just reaction to news stories.
Q You never discussed this question of whether the Perry County Bank should have filed CTRs with Mr. Clinton?
A No.
Q Mrs. Clinton?
A No.
Q Have you ever discussed with Mr. Lindsey his role in connection with withdrawal of the cash from the Perry County Bank in connection with the 1990 gubernatorial campaign?
A No.
THE WITNESS: Now I do have to talk to you again.
MR. COHEN: Okay.
(Recess.)

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BY MR. GIUFFRA:
Q Go ahead.
MR. COHEN: There is no question before. Let's pose one, not you --
THE WITNESS: Go to two questions.
MR. GIUFFRA: What is the question? You have apparently spoken to your lawyer. Let's get it out.
MR. COHEN: You previously asked a question as to whether she had spoken with anyone about the withdrawal of funds from the Perry County Bank, and if you didn't, I'm not quite sure you asked that question, but let's put that question presently and get an answer to it.
That's the question.
THE WITNESS: It is? You asked me if I had conversations about the use of cash in the '90 campaign, I think, and I was beginning to remember people that I talked to. There are two conversations which have come to mind since you asked me that question. Do you want to know what they were?
BY MR. GIUFFRA:

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Q Yes.
MR. COHEN: Please tell him the two conversations.
THE WITNESS: One night -- and no, I don't remember when, because I don't remember numbers -- I received a call from a woman in Arkansas who had been a volunteer or had been on the staff -- I don't know which -- of the '90 campaign saying that she wanted me to know that an FBI agent had been by to interview her about her having gone to the Bank of Perry County and picking up cash for the campaign and that she had signed a piece of paper for having received it and taken it back to the headquarters.
BY MR. GIUFFRA:
Q What is the person's name?
A I think her name is Glenda Cooper.
Q C-o-o-p-e-r?
A I believe that's her name.
Q What else did she say? Did she say who directed her to go to the Perry County Bank?
A I don't remember that she did.
Q Did Mr. Lindsey's name come up?

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A Yes.
Q What did she say about Mr. Lindsey?
A She said that Mr. Lindsey had told her that if anybody ever said anything to her about that, that she was to let him know. So, she was calling me because she wanted me to tell him.
Q When did Mr. Lindsey say to her that she should --
A I didn't ask her that.
Q Was this something Mr. Lindsey said during the campaign?
A Yes, that was my impression.
Q Mr. Lindsey said to Ms. Cooper, the volunteer -- do you know where Ms. Cooper lives?
A In Little Rock. I think she lives there.
Q Did she ever work on any of the other gubernatorial campaigns?
A I don't remember.
Q Ms. Cooper said to you that --
A She was in the '92 campaign.
Q She worked on the '92 campaign with you?
A Not with me.

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Q After the FBI agent came to her -- Mr. Lindsey told her during the '90 campaign that if anyone ever came and asked her about her going over to the bank --

A Or gave her any trouble about it or something. It was just to let him know, the theory being this is my deal, not yours, and I will handle it.

Q Did you then talk to Mr. Lindsey about that?

A I did notify him.

Q What did you tell Mr. Lindsey?

A Just that.

Q What did Mr. Lindsey say to you?

A Nothing. He is not -- you don't really have two-way conversations with Mr. Lindsey.

Q When did you have this conversation with Ms. Cooper? Was it '93, '94?

A I don't know.

Q Was Clinton president?

A Yes. It was probably '94-95. My assumption was that the FBI investigators were

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connected to a special counsel.

Q You think it was '94?

A I think so.

Q Do you recall how much money Ms. Cooper --

A I don't.

Q Would she know?

A I'm sure she did.

Q Did Ms. Cooper tell you anything more about the withdrawal of this cash?

A No. She only told me she picked it up and wanted me to tell Bruce.

Q Did she say approximately what date she picked up the cash?

A No.

Q Did she indicate she had been to the bank before to pick up cash?

A No.

Q Do you get the sense it was close to election day when she picked up the cash?

A Yes.

Q Did she say anything more to you during that conversation about the picking up of this cash

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at the bank or anything Mr. Lindsey said to you?
A No. I think that is all I remember.
Q I just want to vacuum your knowledge about this matter.
MR. COHEN: What a strange word to hear coming from you. That can be used in an innocent way, I understand.
MR. GIUFFRA: Some people say.
BY MR. GIUFFRA:
Q Did you recall anything more about your conversation with Mr. Lindsey?
A No.
Q Have you spoken to anyone else about this conversation you had with Ms. Cooper and then the conversation with Mr. Lindsey, other than your lawyer?
A And I just now remembered it and told him.
MR. COHEN: Other than your lawyer.
BY MR. GIUFFRA:
Q Did you discuss this with the Independent Counsel?
MR. COHEN: None of your business what she

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has discussed with the Independent Counsel. It would be in my judgment a violation of all sorts of things.
MR. GIUFFRA: We actually have asked witnesses whether they have in fact said this, this has been in public testimony, what they have told the Independent Counsel.
MR. COHEN: Before I would let her answer that question, I would have to consult with people as to the Independent Counsel.
BY MR. GIUFFRA:
Q Is there any documentation reflecting this communication with Ms. Cooper?
A No.
Q Why did your role change between the --
A Wait. I didn't finish.
Q Okay. Go ahead.
A I'm in trouble again, aren't I?
MR. COHEN: Not at all.
BY MR. GIUFFRA:
Q You have the Cooper conversation and the Lindsey conversation.

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A Well, then there is a third conversation. I was having a conversation at some point, and I don't remember where or why or how or what the subject was, but the issue of the '90 campaign came up. I was talking to Bob Nash, and he told me that once Bruce had asked him to go to Perry County and pick up some get out the vote cash for him. That's all I know about that.

Q That's all he said. Did he say whether Mr. -- did Mr. Nash indicate he had been asked about this by the FBI?

A No.

Q Did you report what Mr. Nash said to Mr. Lindsey?

A No.

Q You had no other conversation with Mr. Lindsey about picking up cash from the Perry County Bank in connection with the '90 campaign?

A That's all I remember.

Q You can't remember any conversation with anyone else about picking up conversation from the Perry County Bank?

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A Not so far. I'm doing my best.

MR. COHEN: She went from remembering no conversations to three conversations.

MR. COLE: It is skillful examination by Mr. Giuffra.

MR. GIUFFRA: Thanks. I appreciate that.

MR. COHEN: I think the record was it was Ms. Wright who remembered the conversations, took a break and then disgorged them.

BY MR. GIUFFRA:

Q Why did your role change between the '88 campaign and the '90 campaign? Or was it the '86 campaign?

A Why did my role change?

Q Because you became the state party chairman? Why weren't you as actively involved in the campaign of '90 as opposed to prior years?

A I didn't manage the '90 campaign, and I had managed the prior years.

Q Again, you have no -- in terms of the way that those withdrawals were done for the get out the vote drives, you don't have any sense as to how it

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could have been done differently?
A I don't know how they did it.
Q Did Mr. Nash indicate to you what use was made of the money?
A No.
Q Do you have any idea as to what use was made of the money?
A No. I didn't have any further discussion with him.
Q Last question. Why did your role -- why were you no longer the Governor's campaign manager?
A Well, I left the Governor's staff toward the end of 1989, though I didn't technically go off the payroll until January of '90. So I was no longer working for him, and I didn't want to run the campaign in '90.
Q Who became the campaign manager?
A Gloria Cabe.
Q C-a-p-e?
A C-a-b-e.
Q Have you ever spoken to Ms. Cabe about the withdrawal of cash from the Perry County Bank?

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A No.
MR. GIUFFRA: I think now is a good spot to stop. It is quarter to 7:00. We very much appreciate your cooperation and indulgence. We have to try to find another day in order to do this promptly.
MR. COHEN: We will do our best.
(Whereupon, at 6:45 p.m., the deposition was adjourned.)

BETSEY WRIGHT

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey

Notary Public in and for the
District of Columbia

My Commission Expires SEPTEMBER 14, 1996

DEPONENT BETSEY WRIGHT (Jan. 26, 1996)

ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
17	6	"Linda Dibson"	to "Lynda Dixon"	
55	6	"uninsured"	to "uninsured institutions"	
61	3	"Ms. Clinton"	to "Mrs. Clinton"	
82	9	"is now"	to "was"	
115	14	"primary"	to "primarily"	
158	8-9	"high visibility"	to "highly visible"	
184	15	"not in"	to "nothing"	
199	16	"tell John"	to "tell on John"	
202	9	"Bird Eye"	to "Birdeye"	
222	21-22	"commissioners"	to "commissioner"	
255	4	"Marlon"	to "Marlin"	
275	9,10,11	"Catty"	to "Caddy"	
287	18	"whether the"	to "whether"	
288	21	"for"	to "from"	
293	14-15	"approved into"	to "approved"	
Exhibit 1 (Ms. Wright's Resume)		delete her home address, work address, and social security number		

ONIE ELIZABETH (BETSEY) WRIGHT

WORK HISTORY

Principal, Senior Director, The Wexler Group, a government relations consulting group (March 1993-present)

Transition Staff (November 1992-January 1993)

Deputy Chair, Clinton-Gore Campaign (March-November 1992)

Fellow, Institute of Politics, Kennedy School of Government, Harvard University (February-March 1992)

Chair and Executive Director, Democratic Party of Arkansas (June 1990-September 1991)

Chief of Staff or Campaign Manager for Governor Bill Clinton, Arkansas (December 1980-January 1990)

Director of Political Action, American Federation of State, County and Municipal Employees, Washington, D.C. (March 1979-January 1980)

Executive Director, National Women's Education Fund, Washington, D.C. (November 1973-February 1979)

Consultant and Coordinator, Series of positions in Texas Politics, Government and Public Interest Efforts (1958-1973)

PRESENT BOARD MEMBERSHIPS

Director, US Bioscience, Inc.
Director, American Council of Young Political Leaders
Associate Member, McDonald Observatory and Astronomy Board of Visitors
Member, Governing Board of University of Maryland Center for Political Leadership and Participation
Honorary Board Member, Green Door



BACKGROUND DATA

Home Address:

Work Address:

Date and Place
of Birth:

Education: University of Texas at Austin
B.A. 1967

DEPOSITION OF AMY STEWART
IN RE: S. RES. 120

MONDAY, JANUARY 29, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of AMY STEWART, called for examination pursuant to notice of deposition, at 11:27 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, ESQ.
Majority Associate Special Counsel
NEAL E. KRAVITZ, ESQ.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALDEN L. ATKINS, ESQ.
Vinson & Elkins
The Willard Office Building
1455 Pennsylvania Avenue, NW
Washington, DC 20004
On behalf of the Deponent.

ALSO PRESENT: DAVID BOSSIE

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PROCEEDINGS

MR. BARTOLOMUCCI: On the record.

Ms. Stewart, this is a deposition being conducted pursuant to Senate Resolution 120 which establishes a special committee administered by the Banking Committee to conduct an investigation of Whitewater Development Corporation and certain other related matters including matters pertaining to the Rose Law Firm. This deposition is being conducted in advance of public hearings, at which you may or may not be called to testify.

If at any time you don't understand the question I am asking, please let me know and I will rephrase it, and tell me if you need a break at any point. Our court reporter is going to provide a record of questions and answers. This deposition will be treated as what we call committee confidential until the commencement of hearings.

Prior to the hearings, you will receive a letter from the committee telling you that you may come to the Senate to review the transcript of your deposition and make note of any corrections for

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transcription on an errata sheet.

If you are to be called to testify at a public hearing, you will be permitted to have a copy of your deposition transcript four days in advance. As you know, you may be represented by counsel, as you are today. I will also tell you that objections to the form of the questions will be noted for the record. Counsel may also object on grounds of privilege or of -- that a question goes beyond the scope of the resolution. Any objections may be ruled upon by the committee chairman.

I am going ask the court reporter to swear you in. Before we went on the record we had a discussion about her ability to do so, given that this is a phone deposition, but before we went on the record, all parties agreed that Ms. Stewart would consent to this procedure and we would defer any questions about the binding effect of swearing in a witness in this manner.

MR. ATKINS: That is correct. This is Alden Atkins.

MR. BARTOLOMUCCI: You want to go ahead and

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swear in the witness.
Whereupon,
AMY STEWART
was called as a witness and testified as follows:

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MR. ATKINS: On the record. This is Alden Atkins. I would like to make clear for the record what might not be reflected on the printed page, which is that this deposition is being conducted by telephone. Ms. Stewart is in her offices in Little Rock, Arkansas and I am in my offices here in Washington, D.C. and you are in the Senate Banking Committee offices.
MR. BARTOLOMUCCI: All of that is correct.
EXAMINATION
BY MR. BARTOLOMUCCI:
Q Ms. Stewart, can you give us a brief summary of your educational background.
A Phillips Exeter Academy, 1977; Wellesley College, BA, 1981; New York University, JD, 1986.
Q When did you come to the Rose Law Firm?

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A September 1988.
Q And you are currently a partner at the firm?
A Yes.
Q When were you made partner?
A I think October 1992.
Q Can you tell me what you did in that one- or two-year period between when you took your JD and when you came to the Rose Law Firm?
A Yes, I clerked for Judge Eisele, Chief Judge for the U.S. District Court, Eastern District of Arkansas.
Q When did you first meet Hillary Rodham Clinton?
A I guess sometime in late 1986, probably. After I came to Arkansas, maybe 1987.
(Discussion off the record.)
MR. BARTOLOMUCCI: Back on the record.
BY MR. BARTOLOMUCCI:
Q Ms. Stewart, can you tell me, as best you can, all of the times during which you have been in the White House?

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A I assume you mean during this administration.
Q Yes.
A I think the first time was May 1993. No, no, that is not right. I think I must have been there -- would it be true there was anything during the Inauguration? I don't know. I don't remember. I was in Washington during the Inauguration. I don't remember if we had anything in the White House there. Or if I didn't get there for the first time until May of 1993, and then I think I came up for a visit, the Christmas party in December of 1993. Then I don't think I was there again until maybe sometime this spring I was in Washington on business and I stopped in to say hello just for a few minutes.
Q "This spring" meaning of 1995?
A That's all I can think of.
Q In response to my last question when you said you visited in the spring, was that the spring of 1995?
A Yes.
Q So, your first visit to the White House was

during the Inauguration, so that would have been during the --

MR. KRAVITZ: I think she said she doesn't remember, she doesn't know if she was there during the Inauguration.

THE WITNESS: Right, I was up for the Inauguration festivities in Washington. I don't remember if there would have been any reason we were in the White House.

BY MR. BARTOLOMUCCI:

Q You may have been, but you don't remember?

A If there was some sort of party or event then I probably was there. But I don't remember.

Q In May of 1993, what was the occasion for you being in the White House?

A I had come up to kind of, I guess, review the health care proposal that was -- they were nearing a final draft and I was giving a fresh and objective eye over the antitrust issues, an overview or review to help.

Q Who asked you to come to Washington to perform that task?

A Mrs. Clinton invited me.

Q How long were you in Washington to perform that task?

A About three weeks. I was probably somewhat slower than normal. I was pregnant with twins at the time. The head didn't work very clearly.

Q Did you take a leave of absence from the law firm or anything like that during that period?

A Vacation, no, not -- we don't have a formal leave of absence.

Q You used vacation time while you were working on the health care task force?

A We don't have anything formal like that. You know, as a partner, I am not limited to one or two or three weeks of vacation time. I used it as kind of a vacation. We don't have any formal procedure I know of that would call it something special, if it was called a vacation or sick or anything else.

Q Okay. Were you doing Rose Law Firm work at the same time as you were working on reviewing health care antitrust issues?

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A No.
Q Was that a no?
A It was no. Yes.
Q Other than Mrs. Clinton, who else was involved with bringing you to Washington to work on the health care task force?
A Nobody, to my knowledge.
Q Who did you work with once you were here in May of 1993?
A I don't know that you would -- I didn't work closely or specifically with anyone, but it was Ira Magaziner's group. He headed up whatever the health care task force was, and so when I needed information or when -- if I had questions I would ask those people, the people on his staff, I guess.
Q Who would you say you reported to during that period?
A I guess Ira.
Q And did you produce any work product or the like?
A No. I was -- I read through the draft of the plan as it was at that stage, and as I recall, I

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talked to Ira about my thoughts on it that here are a couple of places that I have concerns and here are places I think you need to develop a few more standards or whatever. It was pretty informal, very informal, what I did.
Q And this occupied you for three weeks?
A By and large, yes. Like I said, I wasn't moving at top speed.
Q Understood.
Where physically were you working at that time in May of 1993?
A Wherever I could find a chair. Somewhere between the -- sometimes I sat in the Old Executive Office Building, wherever there was kind of an empty place. It was pretty crowded and pretty hectic around there. Sometimes I sat in a room at the White House. Sometimes I sat in a chair at Hillary's outer office. Really and truly, wherever there was a chair. I didn't stand at all.
Q Did you ever work out of Vince Foster's office?
A I'm sorry, what?

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Q Did you ever work out of Vincent Foster's office?
A No. I didn't have any assigned place. I mean, there was no -- I wasn't told here is your desk, go at it.
Q Did you ever do some of your work within Vincent Foster's office?
A Yes, sometimes I sat in there, and -- if he wasn't busy or something. I would sometimes sit on his couch. Not so much there. Most of it really, as I recall, was more up in the -- you know, in the room where I was staying.
Q Where were you staying?
A Most of what I was doing was reading and thinking and making sort of notes to myself for conversations with people on the plan as I was reading this big, fat, thick plan. And there were several drafts of it and there were other side issues. And if I wanted more information on a particular subject within the plan that I need to read whatever the background was on that. I mean, it wasn't -- I don't know what the normal procedure for

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things are up there, but this was very informal.
Q And you were analyzing antitrust issues; is that right?
A Right. I was looking at the plan primarily for -- from an antitrust perspective, were there issues that -- we shouldn't do this or it will cause a problem or how were some of the procedures to work with -- without causing antitrust problems.
Q Is antitrust the focus of your private practice?
A Yes. Primarily, I do general, large business commercial defense, but the bulk of that is antitrust, yes.
Q During this period in May of 1993, where did you stay overnight?
A On the third floor of the White House.
Q In the personal residence or the private residence at the White House?
A Yes. The third floor is where guests and family friends stay.
Q Did you stay in any particular named room?
A No. There's just a bunch of guest bedrooms

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up there. To my knowledge, I don't know if any of them were named. Not like the Lincoln bedroom or the Queen bedroom, whatever that was.

Q Now, in connection with the work you were performing for the health care task force, did your work cause you to have any involvement with Vincent Foster?

A You mean was he looking at any of the antitrust issues?

Q That's right.

A No, not to my knowledge.

Q What about Webster Hubbell?

A Again, well, no. He wasn't. I think that at some point I asked to talk to Anne Bingaman, who is head of the antitrust section of the Justice Department. And I think I asked Web if that was appropriate or if that was okay if I met with her, and would he set it up. And I guess he must have or he must have told me to go down there. But to my knowledge, he wasn't doing anything on the health care plan, Web wasn't.

Q So other than arranging that meeting with

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Anne Bingaman, you had no involvement with Webster Hubbell related to the health care task force?

A No, not that I can think of.

Q Did you have other contacts with Mr. Hubbell?

A Of course, he was a good friend to us all. I saw quite a bit of him, I guess.

Q During the time that you were in Washington in May of 1993, did you have any discussions with Mr. Hubbell about his billing practices at the Rose firm?

A Not at all.

Q Did you discuss Mr. Hubbell's billing practices with anyone while you were in Washington in May of 1993?

A No. Nobody from the administration. And in fact, I don't think I talked with anybody at all about that that early. I don't think I was aware of it that early.

Q When do you think you became aware that there was an issue or problem concerning Mr. Hubbell's billing practices?

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A I didn't really become conscious of it, until I think -- November? I had the twins in October and I didn't come back to the firm until December. And I think that that's when I really became aware that there were serious questions. I think there was a partners' meeting sometime in December where Ron kind of laid things out.

Q That would be Ron Clark?

MR. ATKINS: So the record is clear, Amy, did you take time off prior to the birth of the twins?

THE WITNESS: Yes. Yes, we found out -- I didn't actually know we were having the twins until the day after I got back from Washington, when things -- things had been peculiar while I was up in Washington. I had three before the twins and so I was used to being pregnant and this seemed a little different.

And so I found out on roughly the first of June that I was having twins, and then right after that we had some tests that indicated there might be a pretty serious problem with one or both of them.

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And throughout the summer and fall I was not at the firm very much at all. And then by oh, -- actually by probably middle or late August I was mostly on bed rest. So I was very little at the firm until the first of December, but then I don't think I was back full-time.

BY MR. BARTOLOMUCCI:

Q Again, during May of 1993, did you have any contact with William Kennedy?

A Again, social, yes.

Q But no involvement related to the health care task force?

A Oh, I don't know that he was -- to my knowledge, he didn't do anything on health care either.

Q During May of 1993, did you have any contact with any of the administration officials in Washington? And by that I mean Webster Hubbell, William Kennedy, Vincent Foster, Hillary Clinton. Did you have any contact with them regarding Rose Law Firm matters?

A No. If I understand you right, no, not at

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all. We didn't talk about any ongoing firm business or firm issues at all. Web was preparing for his confirmation, as I recall, during that month. And so I -- you know, if they asked a question about things in the past at the firm I would come up with an answer, but there was no discussion of anything current at the firm. Those people had all resigned from the partnership.

Q Ms. Stewart, the committee has a document that was produced to us by the RTC, there is a fax transmittal page which is dated May 17, 1993. And the fax was, according to the document, sent by Richard Donovan of the Rose firm and it is addressed to Vincent Foster, attention, Amy Stewart.

Do you remember receiving such a fax while you were in Washington?

A Not specifically, no.

Q Let me tell you a little bit more about it.

MR. ATKINS: Let me interrupt a little bit here. Alice Fisher had identified that document for us prior to the deposition and I believe that

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Ms. Stewart has a copy of it available in front of her.

THE WITNESS: I do.

BY MR. BARTOLOMUCCI:

Q So you know the fax and transmittal I am talking about?

A Yes, I do.

Q Do you remember receiving it? Ms. Stewart, do you remember receiving the fax?

A No. I mean, I have it in front of me and I have seen it. Alden showed it to me last week, but I don't remember specifically receiving it, no. I can tell you what it's about, though, because I recall the issue.

Q Do you know why this would have been sent to you?

A Yes. When Web was preparing for his confirmation hearings, that was the time -- I don't know if you recall the country club issue down here where there was a lot of controversy or hubbub about the Arkansas people who had been members of the Little Rock Country Club and questions about

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race-related membership issues. And somebody, I don't know, I don't remember who, was somewhat concerned that he might be concerned on the firm's hiring practices and what our record was on hiring minorities.

And so I think I called back to the firm, if I remember right, and I guess talked to Rick Donovan and I think I remember talking to him, and said what is our record like. I had only been a partner for a couple of months at that point, I hadn't been privy to any discussions or concerns before that.

So I called back and said what's our record like and does anybody have any records on the firm's hiring practices. Although I don't remember it specifically, you can tell from looking at the memo where -- looking at the cover page where Rick said, Amy, look at paragraph 6 of the RTC letter, paragraph 6, equal employment opportunities and participation, and look at paragraph 4 of Web's response which again refers to the Rose Law Firm as an equal opportunity employer and complies fully with all government

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regulations regarding non-discriminatory employment practices.

This was by way of his response to my question about does the firm have any records on hiring practices if that gets to be a question at the confirmation hearings.

Q So during the time that you were in Washington in May of 1993, you were working not only on the health care task force but also assisting Mr. Hubbell in preparation for his confirmation hearings?

A Yes, I remember a Saturday meeting that they -- that whoever was preparing him -- that Web invited me to where he was being prepared by, I guess, whatever team does this sort of thing. And they -- he invited me to come in case there were anything that I could add about Arkansas, can clarify or if I could think of for him. This is the hiring practices issue, in fact, and the country club, as far as I remember.

Q Do you remember what else --

A Anyway, I didn't come up to Washington to

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prepare Web for his confirmation. I mean, I didn't come up from Arkansas to Washington to prepare Web for his confirmation. Once I was there, I came to that session.

Q He asked you to assist once you were here?

A You could call it assist. He invited me to come to that preparation session. He didn't call it assisting. I don't even know what assisting could be. I couldn't offer much more than what I did, which was finding out about this hiring practice. And I recall saying to several people on the -- or saying at that session about the country club issue, although I understand the whole southern side of how these country clubs work and things like that, but all focused on the country club and the hiring.

Q Can you tell me who was at this Saturday meeting?

A Oh, not by name. I could describe a couple of the people to you.

I think maybe there was a small fellow, kind of slight, with silver hair who had for a while been -- he was a merchant banker or something like

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that, I am not even sure what a merchant banker is, but I remember he was the only one I had ever met. A woman named Nancy may have been there.

Q Could Nancy have been Nancy McFadden?

A I don't know. She was thin, maybe five, four or five, five, light brown hair, not quite to her shoulders, kind of straight.

Q So -- and it was just the four of you?

A No, there were other people, but I don't know who they were. I mean, I am sure somebody introduced me at the time, but I don't remember who they were.

Q Was the only issue discussed at the meeting this one concerning the country club?

A No. I'm sure that that wasn't the limit, but I -- the other stuff was meaningless to me. Whatever it was they were talking about, I didn't know what it was. I mean, I didn't understand it, I don't remember it.

Q So after the meeting, you think you placed a call or several calls back to the Rose Law Firm to see what you could find out about the firm's hiring

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practices?
A Well, I think I called Rick Donovan. I don't know that I did it more than once.
Q Why would you have called Rick Donovan?
A Because he was the person left, I guess, that I thought must have known something about it. Because there weren't in the office three of the litigation partners. There weren't a lot of us to begin with.
Q Again, just so the record is clear, in connection with preparing Web Hubbell for his confirmation hearings, you were party to no conversations about his billing practices at the Rose Firm?
A No. I wasn't on a firm assignment to go prepare Web. Moreover, as far as I know, there weren't questions about Web's billing questions at that point. If there were, I wasn't privy to them. I wasn't involved in firm management, I wasn't on the executive committee. I was a new partner who hadn't been around a lot yet. So if that early there were any questions, I didn't know about them.

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Q Were you involved with the shipment of Hillary Clinton's files from the Rose law firm to Washington?
A Peripherally. Not the initial stuff. When she left, whatever -- whatever she brought to Washington, if anything, I didn't have anything to do with. There was a time in '92 -- I mean '93, they got elected in November of 1992 so they came in 1993, I think there was a letter in 1993 from Alston.
Q Say that again.
A There was a letter to me from Millie Alston, who was Hillary's secretary at the firm and then went up to be -- some office in Washington, correspondent, I think it is, and going down the list of her files and telling me what to do with the standard firm vernacular, which is destroy, save, whatever, the secretaries have. There's some standard systems they use or fairly standardized systems they use for storage and retention of files.
And I don't know the details of it, but at any rate she was -- she sent a letter saying what to do with some of these files, and I didn't actually

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handle it myself. I think my secretary did whatever -- we actually got the letter and was supposed to do whatever it was with the files, but I am not sure it got done. Those were the files I think we ended up having at the firm and they didn't get handled because I was out of the office having the baby.

Q Just to back up and go over this in more detail, tell me again who Millie Alston is.

A Millie Alston was Hillary's secretary at the firm.

Q And at the time you received this letter, where was she?

A I think she was in the correspondence office at the White House.

Q So Ms. Alston came to Washington with Mrs. Clinton?

A Right.

Q Can you pinpoint what time you received this letter from Ms. Alston?

A No, but I can only guess it was while I was out having the baby. I mean, I can only guess it

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came sometime from June of '93 until December when I got back, because my memory is that it didn't get done because I wasn't here.

Q Why would that letter have been sent to your attention?

A Because there were files, client files and Hillary's research files and whatever was left that didn't get sent to Washington, and somebody had said to me early in the year, I guess, in January or February or something, will you hold these files until somebody figures out what do with them. So I was ostensibly the custodian because nobody else was around to do it.

Q So you became the custodian of Mrs. Clinton's Rose files or at least those she didn't take with her?

A Or disburse. Now, this was a very small percentage of her total files, client files. Active clients got disbursed to whatever attorneys were appropriate. I don't know what all happened to files outside of what she left here, but these were things that were her charitable work and I never went

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through all the files. I don't know actually what was in there. But, yes, what was left ostensibly got left with me. Although again, it was not like they were piled in my office or anything like that.

Q Do you remember who asked you to become a custodian of these files?

A No. You know, I don't know.

Q Could it have been Mrs. Clinton herself?

A Oh, no. I don't think I saw her after the election back here maybe but once.

Q Was there an index to these files?

A I think so. I think that a file clerk may have -- yes, made an index. I think so.

Q Does that index still exist?

A I don't know. I don't have it.

Q So --

MR. ATKINS: I think I can short-cut this and tell you those files have been reviewed for material responsive to all the various investigations and that which is responsive has been produced, including the -- well, fact of the matter is there is nothing in there relating to Madison Guaranty.

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MR. BARTOLOMUCCI: Thank you for that input.

BY MR. BARTOLOMUCCI:

Q When you received the letter eventually from Ms. Alston, it instructed that some of the files be destroyed; is that correct?

A Well, it had notations along a list of files, you know, on the left-hand side or the right -- somewhere in the margin, it said what to do with them. I don't actually remember what any of the notations were. But they were the kinds of things that our secretaries normally have as notations.

As far as I know, none of it happened, though.

It seems to me within a few days, and Alden will probably know better than I or Ron, but within a few days of the time that I realized I had this letter, we got some sort of notice that we were supposed to preserve all files. Nothing, again, did happen with those files. I turned them over to either Ron or Alden or whatever lawyers were handling it and they started reviewing. But I don't remember

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what annotations there were on the sides. I just recall there was a kind of initials the secretaries used to do whatever the standard procedures are with our old files.

Q Did there come a time when you were involved with having some files sent to Mrs. Clinton at the White House?

A Those files that I remember having -- that were on that list, and I should be clear about this. I am not sure everything that was on that list was a file that had gotten left here. I don't remember where this list came from. All I know -- I don't know how they compiled it, but -- and I don't remember whether there was an annotation on every file.

But at any rate, whatever files we had here still, I just gave I think to Alden, actually.

Q So you were not involved in having files sent to Mrs. Clinton? Can you give your answer again, please?

A Not that I can recall.

Q During his deposition, Ron Clark indicated

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that documents had been shipped to Mrs. Clinton from the Rose firm. Do you have any knowledge of what that might be?

A I don't remember having shipped any to her at all. And if I had, it wouldn't have been directly to her because my memory is this letter came from Millie, from Millie. What I remember is I didn't deal with that letter because by the time I focused on it we were told to hold everything, preserve it. I don't know whether it was because we had a subpoena or something, but I don't recall ever sending documents -- those files out to her.

Q Or taking any action with respect to those files, other than turning them over to --

A Right, that's my memory.

Q And --

A I am saying that I think I remember turning them over to Alden. I may have given them to Ron, but actually I didn't -- they were in a filing cabinet, I said here they all are. I didn't physically carry down all the files.

MR. ATKINS: Let me state for the record so

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this is clear that those files have been kept in a room under lock and key for at least two years.

MR. BARTOLOMUCCI: You are referring here to Mrs. Clinton's files?

MR. ATKINS: Ones that she left behind at the Rose Law Firm, that's correct.

MR. BARTOLOMUCCI: These are the same files that are indexed or referenced on the letter from Ms. Alston?

MR. ATKINS: Whatever was left behind has been left in a room and has been carefully preserved under lock and key and have been reviewed for the purposes of responding to all the various requests for documents that we have received.

MR. BARTOLOMUCCI: And I take it that billing records related to Madison Guaranty are not a part of these files?

MR. ATKINS: No. And indeed, there are no client files in there to the best of my recollection.

BY MR. BARTOLOMUCCI:

Q Ms. Stewart, during the time that you were

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in White House, do you remember any discussion about Madison Guaranty?

A Not at all.

Q What about any discussion about Whitewater Development Corporation?

A No. None that I would have been privy to. I am not aware of any at all.

Q Did you have any discussions about or -- about Rose Law Firm billing records while you were in the White House in May of 1993?

A I can't imagine why I would have.

Q So you have no memory of discussing billing records?

(Pause.)

Ms. Stewart, did you hear the question?

A I said no.

Q I don't think we heard your response on this end. Just to close the loop on our discussion of your acting as custodian of Mrs. Clinton's files, to the best of your knowledge, none of these files were shredded or otherwise destroyed?

A Oh, no. No.

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Q While you were in the White House in May of 1993, did you have any contact with Jim or Diane Blair?

A When I first got to the White House, Mrs. Blair may have been there at the same time up on the third floor, and I don't remember for how long. I don't think she was there during the whole three weeks I was there. I think it was when I first arrived. That's when I first saw her. I don't know if I ever saw her husband there. I just don't remember. I do know the Blairs and I can't place whether and for how long I saw Diane up there. I know I saw her up there, but I can't place for how long. And I don't remember --

Q Do you know why Mrs. Blair was at the White House during that time?

A Had some sort of fellowship, I think, with the Brookings Institute, private, nonprofit think tank kind of place, on a sabbatical from the University of Arkansas, Fayetteville. I think she was staying up there overnight while she had this Brookings -- I think she came back and forth from

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Arkansas to the Brookings Institute.

Q So you think she may only have been there one night?

A Oh, no. I just don't know how many nights she was there.

Q Would you say that you saw her frequently throughout that period?

A No, I don't think so. I'm thinking she was there when I got there. Wasn't there for very long after that. There were -- I really don't remember, but no, I don't think she was there for very long while I was there.

Q But she was there for some part of the time?

A I think the very early part.

Q And Jim Blair, you don't remember being there at all?

(Pause.)

Did you answer that question?

A I said no, I just don't remember whether he was there.

MR. BARTOLOMUCCI: Again, we didn't get

that on this end.
BY MR. BARTOLOMUCCI:
Q Do you remember seeing Harry Thomasson in the White House while you were there?
MR. KRAVITZ: Can I ask what the relevance of that question is?
MR. BARTOLOMUCCI: We are probing documents in Vince Foster's office and what happened to them, including documents that may relate to the travel office matter.
MR. KRAVITZ: If you want to try to focus that question a little bit better, I won't object to it but as it stands, I will object to that question.
MR. BARTOLOMUCCI: I am asking just the broader question in the hopes that it would -- if the answer is no, then that takes care of the matter and there wouldn't be need for any more.
MR. KRAVITZ: Why don't you answer that question yes or no.
BY MR. BARTOLOMUCCI:
Q Again, the question was, during the time that you were in the White House in May of 1993, did

you see Harry Thomasson?
A I once met Harry, if Harry Thomasson is who I think he is, burly guy with black and gray beard, then I saw him at dinner once. He was at a -- just a casual dinner one night.
Q This was a White House dinner party, is that what you are describing?
A No, the family has dinner either in the kitchen or up on the third floor in the sun room when it is informal, just family. And I recall, I think, him having dinner one night, although I don't recall whether the President was there and I am not even sure whether Mrs. Clinton was there. I don't actually remember who -- whether they were there. It may have been.
Q You were also at this dinner?
A Yes. You know, family and friends who were staying on the third floor, by and large it seemed at least then to be the practice that if there was just family, then you were eating with the family.
Q Who else do you remember being at this dinner?

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MR. KRAVITZ: I object to that question. I mean, if you want to ask whether the travel office was discussed, we can maybe even talk about narrowing that question further. But I think at a certain point, we are intruding upon the privacy of the Clinton family in a way that is completely irrelevant and inappropriate.

MR. BARTOLOMUCCI: Well, I think it will aid in the questioning if we first know who was at the dinner.

MR. KRAVITZ: I disagree.

MR. BARTOLOMUCCI: I don't know what I can ask about until I know who was present there. We know that Harry Thomasson was at the dinner. I want to know who else was present.

MR. KRAVITZ: For what purpose?

MR. BARTOLOMUCCI: Well, ultimately to find out exactly what was discussed at the dinner.

MR. KRAVITZ: You are not entitled to find out exactly what was discussed at the dinner. The fact of the matter is the travel office matter is outside the scope of Senate Resolution 120.

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You know, there may be some theory by which you could fit in something having to do with the travel office with handling of documents in Mr. Foster's office. If you can show some link that there were documents relating to the travel office in Mr. Foster's office that may have been removed improperly from that office following his death, but to ask a question about what was discussed at a family dinner in the private residence of the White House in May 1993 is totally inappropriate.

MR. BARTOLOMUCCI: Neal, it is well known there were travel office documents in Mr. Foster's office and since this committee is authorized to investigate what happened to the documents in this office and whether any of them were improperly spirited out of his office, it is fair game to inquire as to travel office matters as it relates to that part of our investigation.

MR. KRAVITZ: Let me just say, it may be well known that there were travel office documents found in Mr. Foster's office following his death. There is no evidence that any travel office documents

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were removed from Mr. Foster's office following his death. And for you just to be fishing about some -- by asking broad, general questions about what was discussed at a casual family dinner in the Clintons' private residence in May of 1993 is preposterous.

If you want to ask a question whether there was any discussion about documents relating to anything that were in Mr. Foster's office, I will let you ask that question. But something short of that, we are going to have to get the chairman to rule on this because this is not even close.

MR. BARTOLOMUCCI: Well, Neal, with all due respect, I think you are putting the cart in front of the horse. We don't know that -- whether these lines of inquiry are fruitful until we ask them. When you say there is no evidence that these documents were improperly taken from his office, we can't know that unless we ask the relevant questions.

MR. KRAVITZ: Ms. Stewart, do you know if any documents relating to the travel office were improperly removed from Mr. Foster's office after his death?

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MR. BARTOLOMUCCI: Mr. Kravitz, you will have a chance to ask any questions you want after I finish my portion of this examination.

MR. KRAVITZ: You will be suspended here in a minute if you don't start asking something relevant to the resolution.

MR. BARTOLOMUCCI: I think these are relevant questions. We frequently ask about meetings, lay the groundwork for who was at the meeting and what was discussed so as to investigate a more precise matter.

I mean, your approach would seem to say you can't ask anything by way of laying groundwork for the question that -- and the issues that you do want to get into. I think it is fair to ask who was at this dinner, and then after that I will probe specifically, you know, into what was discussed and whether it pertained to the travel office or -- and documents in Vince Foster's office.

MR. KRAVITZ: Let me say, the travel office itself and the firing of White House employees from that office is not a subject that is encompassed

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within Senate Resolution 120. If you can link it specifically to documents relating to the travel office that anyone has reason to believe were in Mr. Foster's office at the time of his death, I do believe that does come within the ambit of our resolution. But simply the travel office itself is not right today a resolution. I will not allow you to ask those questions. We will have to have the chairman rule on objections.

MR. ATKINS: Let me state for the record I think during -- lost during that colloquy was that Ms. Stewart answered the question no, that she did not have any knowledge about documents relating to the travel office being removed from Mr. Foster's office.

BY MR. BARTOLOMUCCI:

Q Ms. Stewart, is that correct?

A That's correct.

Q Do you have any knowledge whatsoever about travel office-related documents being in Vincent Foster's office?

A No.

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Q You never saw any such documents in his office while you were in the White House?

A Right.

Q And there was no discussion at this dinner with Harry Thomasson about the travel office?

MR. KRAVITZ: Objection.

MR. BARTOLOMUCCI: You can answer.

THE WITNESS: Am I supposed to answer?

MR. KRAVITZ: No, you are not supposed to answer that question. If there is anything -- if there is anything about any conversation that may have occurred that would lead you to believe that it -- either that it resulted in documents being produced or created or that any of those documents might have ended up somehow in Mr. Foster's office, as you might understand it, maybe you should indicate yes and we can think about that further.

But simply whether there was a discussion of the travel office is not within the purview of our resolution.

MR. BARTOLOMUCCI: Neal, I have to again disagree as part of our investigation into the events

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following Vince Foster's death and the handling of documents in his office. I think it is appropriate to inquire as to the issues which we know were weighing on Vince Foster's mind. That includes the travel office, that's revealed in the note that was discovered about a week after his death. And if -- you know, if the travel office is being discussed at this dinner and Ms. Stewart has some knowledge she can share with the committee, you know, I think that's entirely proper.

MR. KRAVITZ: Mr. Bartolomucci, is it your position that the special committee on Whitewater is now investigating Mr. Foster's death itself and the reasons for his death?

MR. BARTOLOMUCCI: It is my position we are investigating the handling of documents in his office after his death. Now necessarily as part of that inquiry, it is legitimate to inquire into such issues as motivation or why people --

MR. KRAVITZ: Motivation for what?

MR. BARTOLOMUCCI: The motivation for why -- that someone might have for removing documents

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from his office. What issues may have been on their minds, when -- if and when that occurred.

MR. KRAVITZ: You know, it is interesting you are talking about all these background questions. You haven't asked this witness whether Mr. Foster was at this dinner. That might be the most likely question to ask --

BY MR. BARTOLOMUCCI:

Q Was Vince Foster at the dinner?

A No.

MR. KRAVITZ: The witness has already told you she has no knowledge about any documents relating to the travel office ever being in Mr. Foster's office, and she has no knowledge about any travel office-related documents being removed from Mr. Foster's office. I just don't see where we are going with this other than information that is completely outside the jurisdiction of this committee.

BY MR. BARTOLOMUCCI:

Q Ms. Stewart, was Web Hubbell or William Kennedy at the dinner?

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A No.
Q How about Ms. Susan Thomases?
A I don't know who she is, but I don't think she was at the dinner. I don't think I knew who she was, I don't know.
Q Were either of the Blairs at the dinner?
A Not that I recall. Again, I don't recall when this dinner was and I don't recall when Diane left, but --
MR. BARTOLOMUCCI: We are going to interrupt for a moment to allow the court reporter to reload.
(Discussion off the record.)
BY MR. BARTOLOMUCCI:
Q Ms. Stewart, I think at this point we won't take the questions about the White House dinner further into the areas that Mr. Kravitz objects to. But since we have already gone over the names of the people who attended the dinner, just to clean up the record on that, can you give me your best recollection as to who attended it?
A I know that there were people around the

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table. I just can't remember who they were. I believe that whatever the name is of the woman who is married to Mr. -- to Thomas or Thomasson.
Q Would that be Linda Bloodworth-Thomasson?
A Yes, I think that's right. I don't know if she uses his last name.
Q Okay, but Harry Thomasson and his wife were there, is that what you are telling me?
A That's what I recall, yes.
Q And you were there. And who from the First Family?
A I don't remember. But I know that Vince, Web and Bill were not there.
Q So you are not sure that Mrs. Clinton wasn't there?
A I just don't remember. This is -- this is -- you know, a standard way, at least back then, that dinners went. Whoever in the family was there, ate dinner whenever they were there. And so, it is hard to know who would have been in or out when --
Q Can you pinpoint the time of the dinner, what day it was on within the month?

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A Oh, no. No idea.
Q But it would have been during your stay in May?
A Yes.
Q Backing up a little bit to the subject of you contacting Mr. Hubbell about a possible meeting with Anne Bingaman?
A Yes.
Q Did Mr. Hubbell arrange such a meeting for you?
A I don't remember whether -- I actually think that what happened was he said just talk to her secretary but I set it up, but I don't remember for sure.
Q Did you ever end up meeting with Ms. Bingaman?
A Yes, I did. I did.
Q To discuss antitrust issues?
A On the health care, yes, I had some questions for her about how she thought things would work, as I recall. I think at that point they were working on the safe harbors that they put out,

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Mrs. Bingaman and her office put out a set of safe harbors in health care antitrust areas where the Justice Department was able to tell in advance that health care organizations were likely not to face antitrust problems, sort of advisory, from the Justice Department. It is standard stuff.

Anyway, I think at the time I went to talk to her she was working on those. That's what she told me sometime later that year.

Q There is something else I want to ask you about. It comes from phone logs we have relating to Webster Hubbell. We have a record of a call that you placed to Mr. Hubbell on May 14, 1993 and -- which is three days before the fax came in from the Rose Law Firm from Mr. Donovan.

And apparently Mr. Hubbell's secretary took down a message to the effect "will be in Vince's office until 2:45. Then at 3:00 will be in meeting for a couple of hours. Will call you after the meeting."

A Yes.
Q Did you have any sense as to what the

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purpose of your call to Mr. Hubbell would have been?
A No, but more than likely it was social. I don't -- I mean, that would not be at all an unusual message. I was probably wanting to see if he wanted to have dinner that night. Who knows? If not -- that wouldn't be unusual or wouldn't stand out in my memory at all.
Q Given it was three days before the date on the fax, you don't think this call was connected to that issue, the issues related to Mr. Hubbell's confirmation?
A I have no idea. It may not have even come up by then.
Q When you apparently left the message, "will be in Vince's office until 2:45," was that meant to indicate that you could be contacted there until that time?
A No, I was probably having lunch with Vince.
Q In his office?
A They have a -- they had at least -- I don't know whether they still do -- some kind of cafeteria arrangement downstairs and you just got a sandwich or

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something and brought it back to your office. So if I just wanted to have lunch with Vince, that would be the most likely place to do it.
Q You think that you were -- you were probably having lunch with Vince Foster until 12:45?
MR. KRAVITZ: Why don't you tell her what time the message was left so she could have that information before she answers that question.
THE WITNESS: I just don't know. I don't have a memory of anything specific about this.
MR. BARTOLOMUCCI: Okay, that's fair enough.
BY MR. BARTOLOMUCCI:
Q Going back to the issue of when you learned about Mr. Hubbell's overbillings, Mr. Clark told us in his deposition that you probably learned about the overbillings in May or June of 1993. Do you think he is correct?
MR. KRAVITZ: Do you want to read to us that so it is not paraphrased?
BY MR. BARTOLOMUCCI:
Q I would be happy to.

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"Question: When did Amy Stewart first learn of the issue of the Hubbell billing irregularities?

"Answer: It would have been in May or June of that year," which is a reference to 1993.

Does that sharpen your memory at all about when you learned about Mr. Hubbell's billing irregularities?

A No, because, again, I don't recall having a serious concern about those until what I think was a December partners meeting.

Q And that is after you gave birth?

A In May, I wasn't -- I wasn't in the firm. In June, I got back but that is when I found out I was having the twins and there was a problem. And I don't -- if I heard anything I sure wasn't focused on it.

Q Okay, so it is your testimony that, to the best of your recollection, you didn't learn of the problems with Mr. Hubbell's billing in May or June of 1993?

A What I recall is that I first had a sense

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of a serious concern, I just don't remember before that. See, I don't know when the firm figured out that there -- that they thought there was overbilling or anything else. I had some sense before that that somebody was questioning his billing practices, but no details about that, nothing that I believed was legitimate or a concern. It just was not a curious issue that I was aware of, because I didn't have any role in the firm management or in the investigation or anything else. But he knew I was pretty incapacitated at the time and I just wasn't a center of information so I wasn't really conscious of it seriously at all until I think December when I would have gotten back to the firm.

Q But it is possible before December you heard something about it, even if it didn't seem substantive at that time?

A Yes, without any details.

Q Can you be more precise about when it was that you first may have heard anything questioning Mr. Hubbell's billing practices?

A Oh, I really can't. I mean, I really don't

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remember when I first would have heard it because whenever I first heard it, I shrugged it off and thought, that's crazy, Web would never do anything like that.

Q To your knowledge, did the firm investigate the billing practices of any other Rose partner who was or is a part of the Clinton administration?

MR. KRAVITZ: Objection. How does that have anything do with billing relating to Madison or billing related to work for the federal government?

MR. BARTOLOMUCCI: It may. We know that Hillary Clinton, Vincent Foster and Web Hubbell all did work for Madison. And I think it is fair game to inquire as to, you know, their billing practices.

MR. KRAVITZ: You do? Just in general? What do you think about that, Alden?

MR. ATKINS: Well, I think it is a stretch, but I think the question was answered by Ron Clark, the guy who was in the position of reviewing all billing records to allocate files to various people. And he testified quite candidly and truthfully that, as he was reviewing Web's billings, he saw that there

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was a -- there were some questions, and that as he reviewed the billings of the other partners to allocate their files, that he saw no evidence of any questions. Everything was very straightforward.

MR. BARTOLOMUCCI: We've already talked to Mr. Clark. While we have Ms. Stewart here I want to ask if she has any knowledge about any inquiry as it may relate to Web Hubbell -- not Web Hubbell, but Vincent Foster or Hillary Clinton or William Kennedy.

THE WITNESS: No, again, there is just nothing I would have been involved in at the firm.

BY MR. BARTOLOMUCCI:

Q At the beginning of the deposition you said you were in the White House in the spring of 1995.

Can you tell me the circumstances surrounding that?

A I was up on business, I don't even remember what month it was, and I just called and said, did Hillary have time to say hello.

Q And she did?

A She said come on over and we walked around the track a couple of times. I think I then had to

go catch a plane.
Q Were you in the residence of the White House at all during that period?
A This spring, this past spring.
Q The spring 1995 trip?
A No, I think I went to the usher's office to let them know I was here, and then -- to let them know I was there so they could call Mrs. Clinton. And then walked out to the -- I walked out to the back side where the track is, had come in through the side on Pennsylvania -- from the usher's office to get to the other side and out to the track. And I can't remember if I even met her inside the House or on the track.
Q Did you have any discussions relating to the Rose firm with Mrs. Clinton?
A No. No. We talked about the twins. How Chelsea was doing.
MR. BARTOLOMUCCI: Well, Ms. Stewart, I thank you. I think that's all the questions I have for you. Under our normal procedures this would be Mr. Kravitz's time to ask some questions to the

extent he hasn't interjected them during my period, so we will just let Neal go ahead now.

EXAMINATION

BY MR. KRAVITZ:

Q Ms. Stewart, I do have a few follow-up questions. Shouldn't take more than a couple of minutes. And I just want to ask some questions to make sure that the record is clear, mostly relating to the files of Mrs. Clinton's. I think you testified you became the custodian of at some point in 1993.

Mr. Atkins at one point made a statement on the record that those files that you were holding for Mrs. Clinton beginning in 1993 had been put under lock and key at least two years ago and actually had been reviewed to see if anything was -- anything in them was responsive to document requests from our committee and other investigative bodies. And Mr. Atkins said, first, that there was nothing in those files relating to Madison Guaranty Savings & Loan, and second, that there was nothing -- that there were no client files contained in those files.

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Are both of those statements consistent with your understanding of the materials contained in Mrs. Clinton's files that you were the custodian of?

A Yes. I certainly don't remember any files in either of those two categories. My memory is that they were more related to her charitable work.

Q By "charitable work," do you mean the type of work that Mrs. Clinton did as a member of the board of the Children's Defense Fund?

A Yes.

Q Did you look through the files? I mean, are you able to say there were no client files in there, or just none to your knowledge?

A None to my knowledge. I don't -- today, I don't remember. At some point, I -- in fact, I would stand over those files -- I looked through them when I think what was the first subpoena came in to confirm there was nothing responsive to that subpoena or whatever the first list that Ron sent around with all the pages of names and references. And so on my uneducated analysis, there was nothing in there that was responsive, and then I don't have any memory of

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client files being in there.

Q How many boxes of files are we talking about?

A I don't -- seems like maybe a drawer or two.

Q One or two drawers in a standard filing cabinet?

A I think that was it. Maybe there -- maybe there was a box, but I don't remember that for sure, in addition to those.

Q To your knowledge, were any documents removed from those files of Mrs. Clinton's from the time that they came into your custody?

A No. Not to my knowledge, no.

Q To your knowledge, were any of the documents contained in those files of Mrs. Clinton's ever destroyed after the time that those documents and files came into your custody?

A No.

Q I just want to make sure that one other point is clear on the record.

You indicated that at some point in 1993

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you received a letter from Millie Alston with instructions about those files; is that correct?
A Yes.
Q Now, I believe you testified that you don't recall what any of the specific instructions were; is that correct?
A Right.
Q So, is it accurate to say then that, to your knowledge, there was no instruction from Ms. Alston to destroy any of Mrs. Clinton's files in your custody?
A Yes, that's right. I don't remember, but I know I didn't take any action on it whatever it was.
Q You didn't take any action on any of the instructions?
A Right.
Q And to your knowledge, regardless of what the instructions may have been, none of those files of Mrs. Clinton's that were in your custody have been destroyed?
A Right. That's my understanding.
MR. KRAVITZ: Thank you. That's all I

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have.
MR. BARTOLOMUCCI: I just want to ask a couple of follow-up questions.

EXAMINATION

BY MR. BARTOLOMUCCI:
Q I think I asked this question previously, but I just wondered if you could tell me again, so that the record is clear, can you explain why you were made the custodian of Mrs. Clinton's files?
A I think because I was a warm body.
Q Just could have been anyone and it fell to you?
A I was a partner on third floor. Yes, I think it could have been any of us, but somebody said, hey.
Q Do you remember who tapped you to be the custodian?
A No. I really don't.
Q Did you have any part in the collection of information or research pertaining to Whitewater or Madison Guaranty as part of the 1992 Clinton campaign?

A No. Not at all.
Q Did you do anything with respect to collecting information or research on Madison or Whitewater after the November election?
A No.
MR. BARTOLOMUCCI: Okay, that's all we have. Thank you very much.
(Whereupon, at 12:50 p.m., the deposition was concluded.)

AMY STEWART

CERTIFICATE OF NOTARY PUBLIC & REPORTER 64

I, JOANNE LIVERANI , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Joanne Liverani

Notary Public in and for the
District of Columbia

My Commission Expires JULY 31, 2000

DEPONENT AMY STEWART, January 29, 1996

ERRATA

PAGE		LINE	CHANGE FROM	CHANGE TO	REASON
5 6	to	5 6	DELETE		Off the record colloquy
21		3	be concerned on	be questioned on	transcription error ("TE")
26		14	correspondent	correspondence	TE
26		18	systems	system	TE
26		19	systems	system	TE
27		7	baby	babies	TE
27		22	baby	babies	TE
31		2	there was a	there were the	TE
62		13	on third floor	on the third floor	TE

DEPOSITION OF GARY J. WALTERS
IN RE: S. RES. 120

FRIDAY, FEBRUARY 2, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of GARY J. WALTERS, called for examination pursuant to notice of deposition, at 1:05 p.m. in Room 540 of the Dirksen Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, ESQ.
Majority Associate Special Counsel
NEAL E. KRAVITZ, ESQ.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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EXHIBITS

Gary J. Walters

DEPOSITION NUMBER	IDENTIFIED
Walters Exhibit 1	73, 1838
Walters Exhibit 2	118, 1839

PROCEEDINGS

MR. DINH: Mr. Walters, as you know, my name is Viet Dinh, I'm with the Majority staff. This deposition is conducted pursuant to Senate Resolution 120. The resolution establishes the Special Committee administered by the Senate Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

The Special Committee has investigated and conducted hearings into a number of subjects and our investigation continues, and that's the reason why we asked you to come today.

Section 1(b)(1) of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vince Foster following his death."

Section 1(b)(3)(A) of Resolution 120 authorizes the investigation and public hearings into "the operations, solvency and regulation of Madison

Guaranty Savings & Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes investigation and public hearings into "the policies and practices of the RTC and federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association."

These subjects will be the focus of today's deposition.

Your testimony will be taken under oath and the stenographer will prepare a record of questions and answers. This deposition is conducted in advance of public hearings which are ongoing now. We have not decided who we will call at such hearings, but you will be notified if you are among the witnesses called to testify.

The transcripts of this deposition will be treated as Committee confidential until the commencement of those hearings. At that time they

may be made public in whole or in part.

Prior to the hearings, you will receive a letter from the Committee telling you that you may come to the Senate and review the transcript of your deposition and make notes of any corrections of your deposition in an errata sheet. That's for the limited purpose of review and that information is not to be disclosed to other persons.

If you are called to testify at a public hearing, you will be provided with a copy of your transcript approximately four days in advance of the hearings; again, for the limited purpose of preparing yourself for the testimony at the hearings.

You may be represented by counsel, and as I see, you are not represented by counsel today.

THE WITNESS: That's correct.

MR. DINH: I would just like to advise you that under the resolution, Resolution 120, objections as to the form of the questions will be noted for the record. There are two grounds upon which you may refuse to answer a question. That is if it concerns a privileged communication or if the question is

beyond the scope of the resolution. The Committee Chairman ultimately will decide whether to sustain your objection with respect to the questions involved.

Whereupon,

GARY J. WALTERS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. DINH:

Q Mr. Walters, can you state your name for the record.

A Yes, the name is Gary J. Walters, W-a-l-t-e-r-s.

Q And your business telephone number?

A Business is 202-456-2650.

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Q Do you share that business line with anybody or is that your own personal line?
A The usher's office at the White House.
Q Do you have a direct line?
A That's it.
Q That's it, okay. From the notice of deposition, have you had any conversations outside your immediate family members or your attorneys regarding the subject matter for which you are about to testify?
A Say that again.
Q From the notice of your deposition that you will be testifying today, have you had any conversations with anybody besides your family members or your attorneys regarding this deposition?
A Not specific conversation, no.
Q Without telling me what you were asked or what you said, can you tell me whether you've been interviewed or questioned under oath by any investigative agencies regarding the subject matters?
A Grand Jury.
Q And that was last week?

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A That is correct.
Q Can you give me a sense as to your background? Can you tell me your educational and professional background.
A I graduated from the University of Maryland, business degree. I joined the White House as a uniformed division officer of the United States Secret Service in 1970, joined the usher's office in February of 1976, became the chief usher of the White House in 1986.
Q Was your position with the Secret Service your first job out of college or business school?
A No.
Q You had various other --
A I was in the military and had a number of other small --
Q What was your position when you came into the usher's office?
A Assistant usher.
Q And you've been chief usher continuously since 1986?
A That's correct.

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Q What are your duties as chief usher?
A Chief usher is responsible for the activities that take place in the executive residence, supervises and manages the staff of 89 persons who are responsible for the maintenance and care of the building, the White House residence as the home of the First Family and a museum that's open to the public year-round with about a million and a quarter visitors a year.
Q These 89 persons, what approximate areas do they work in? Do they include the housekeeping staff?
A Housekeeping staff, carpenters, plumbers, food and beverage service, food and beverage preparation, curators, florists, calligraphers.
Q All the persons associated with the maintenance and care of the White House residence?
A Of the executive residence.
Q To whom do you report?
A Actually, to the President and First Lady.
Q How often do you see them on a weekly basis?

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A Almost daily.
MR. KRAVITZ: You mean when they're in town?
THE WITNESS: Yes. I do not travel with them, that is.
BY MR. DINH:
Q Do you also deal with guests in your duties, make arrangements and scheduling?
A Seldom do we make arrangements and scheduling. We are notified what guests are going to be coming to the residence and then we take care of them from that point, see that they get to the proper rooms, possibly arrange cars to pick them up at the airport, bring them to the White House.
Q Where is your office?
A Inside the north portico of the White House on the state floor, or the first floor of the executive residence.
Q The first floor would be the same thing as the ground floor?
A No, no.
Q How many floors are there?

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A Well, there are a total of seven floors, but all those floors are not full floors. Basically, the ground floor is the floor that you enter upon when you're a tourist. That's the area that you come in on. The first floor is the state floor where the entrance is off the north portico on Pennsylvania Avenue. The second floor and the third floor, which are the family's private areas --

Q And access -- with respect to access to the second and third floor, the family's private areas, where can that be gained?

A There are two elevators. There's a staircase that goes from the -- there's actually only one staircase that goes all the way from the basement to the third floor. And then there's a second staircase that goes from the first floor to the second floor and a staircase that goes from the second floor to the third floor. They are not the same staircase, nor do they go to the other floors.

Q Okay. So two elevators and one staircase that goes from top to bottom?

A That's correct.

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Q And one set of stairs that goes only from the first to the second floor, and then a separate set of staircase that goes from the second to the third floor?

A That's correct. I should say there is a third staircase, but it does not go to the private areas. It goes from the basement to a level below the second floor.

Q At these various points of entrance, are there Secret Service officers or members of your usher's office staff that monitor entry and exits from the --

A Uniformed division of the Secret Service and, if it's appropriate, agents of the Secret Service monitor the entrance to those various points, yes.

Q At each of these points?

A Uh-huh, yes.

Q Does your office keep a separate record of who enters and exits the White House residence?

A We keep a private log just as a courtesy for the President and the First Lady that is

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maintained as personal records for them. And it is something that is given to them at the end of each Administration for their personal use and as a remembrance of their activities at the White House.

Q From where do you get the information that you put in this private log?

A Either from the police officer that's monitoring entrances and exits or from personal contact.

Q "The police officer," meaning the uniformed Secret Service officer?

A Yes.

Q So working off the set of records that he keeps -- or he or she keeps at various points?

A We try and maintain those records in a compatible fashion, yes.

Q And then you said from monitoring. Is there an official monitoring mechanism? Do you have an usher's --

A No, that's personal monitoring. If I was going to take you, I would know from being next to you that I took you to the second floor.

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Q And you would make a note of that in some sort of log or some sort of book?

A Correct.

Q And I take it other assistant ushers do the same thing in their roles?

A They are principally responsible, the duty usher.

Q And do you compile these at the end of the day, the information that you gather from these various officers?

A Yes.

Q Every day?

A Uh-huh, yes.

Q You said the duty usher?

A I have three assistant ushers, actually four, four assistant ushers, I'm sorry, that have responsibility on a rotating basis for the day-to-day management of the operation of the office.

Q And one of them is designated as a duty --

A As a duty person to take care of the desk and take care of the things that are going on at that particular time.

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Q Right. So one out of every four days one of your assistant ushers would be a duty usher?
A It's a rotating schedule.
Q Approximately --
A There's somebody on in the morning from early in the morning until mid-afternoon, somebody on in mid-afternoon to the evening, and then that rotates according to the activities that are going on in the House, and also to allow for days off.
MR. KRAVITZ: Unlike you, Viet, they don't have to work 24-hour shifts.
MR. DINH: Unlike you too, Neal.
THE WITNESS: When it snows sometimes we do.
MR. DINH: Thank you for that reminder of the real world.
BY MR. DINH:
Q And the duty usher would keep a log. Is it the same set of logs for each duty usher or is it --
A It is a log for the office.
Q For the entire office, the notation would be made by various different people but the log

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remains the same set of books?
A That's correct.
Q Where does the duty usher sit? Is there a duty usher desk or do they all sit in their various work stations?
A No, there's a duty usher desk. It's in the usher's office on the state floor adjacent to the north portico.
Q Near your office?
A That is my office.
Q That is your office, okay. And there is an entrance to the White House residence on the state floor?
A Well, the executive residence is the whole building, so there's the north portico, south portico, the east and the west entrances. Are you talking about the private areas?
Q Yes.
A There is adjacent to the usher's office is the staircase that I mentioned earlier that goes from the basement to the third floor, and adjacent to that is the elevator that also goes from the basement to

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the third floor.
Q Is that the primary point of access to the executive areas of the residence -- I mean to the residence?
A I would have to ask you, private access for whom?
Q How about for overnight guests?
A Yes. If I can, those two elevators, the one adjacent to the usher's office, is referred to as the President's elevator or elevator number 1, and the second elevator is the service elevator, or the back elevator, elevator number 2.
Q Besides the overnight guests, can you describe to me who else uses that elevator in order to gain access to the private areas of the residence?
MR. KRAVITZ: Let's specify which elevator you're talking about.
BY MR. DINH:
Q The President's elevator, elevator number 1.
A The President, his family, their guests and

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some staff members who have access.
Q And which staff members have access, those with a blue pass?
A No. The principal access is by the executive residence staff, who have a blue pass, but it also has a code at the bottom that says "res," which designates residence. Although the majority of the residence staff use the number 2 elevator, there are occasions to use the President's elevator or elevator number 1.
The other individuals that are on the staff, the President's or the First Lady's staff, there is an access list of people who have the ability to come and go up to the upper level, without being challenged by the police officers, to go above the first floor level, to go to the private quarters level. And that's determined by the First Family as to who they wish to have uncontrolled access.
Q Do you maintain this list?
A Secret Service has the list. By familiarity, we know who most of those individuals -- well, we know who all those individuals are.

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Q Right. So just so I understand the access of various staff members, those with a blue pass can enter the entire residence -- can enter the residence, the first floor and the ground floor?

A The color of the pass does not determine the access to the executive residence. It's the color plus the coding.

Q The coding allows you to go above the first floor; is that right, did you say?

A The coding on the pass determines for the Secret Service, in addition to coloration, the various accesses that people have. In the case of the executive residence staff, the 89 individuals, we have a blue pass that has "res" on it. That allows those individuals to travel unimpeded or unchallenged throughout the executive residence.

There are other blue passholders who have other codes; WH for White House staff, or -- I don't know what all the codes are. The Secret Service controls those codes. And so the ones that have unimpeded access are the res passholders and the U.S. Secret Service; USSS is on their code.

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Q And whoever else is on that list that you mentioned earlier?

A And what is on that list, who do not have an res pass.

Q Or USSS designation?

A Right.

Q So those are the three categories of staff members who would have unchallenged access to the private areas of the residence?

A That's correct.

Q Are those the only three groups?

A That have passes.

Q Okay.

A There is, for the private guests of the First Family, there is a pass that says "guest," that they are issued when they come in and are guests of the Family, who will be staying there, and that allows them to travel.

Q Right, okay. Now, you said unimpeded and unchallenged, but I take it that does not mean unrecorded? Do those people get recorded on the logs that you had mentioned earlier?

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A No.
Q They do not.
A The executive residence pass holders do not get put on that log. The Secret Service officers do not get put on that log. The individuals on the President's -- more so the First Lady's staff who have more frequent, almost daily, access are not included on there. We would have just pages of the same name.
Q By these individuals, do you mean Maggie Williams?
A Under most circumstances, Ms. Williams would be on the log.
Q On the log.
A I'm referring to Capricia Marshall, Carolyn Huber.
Q Anybody else?
MR. KRAVITZ: I just want to make sure we're all talking about the same thing. Are you now talking about the people on the First Lady's list, staff list, whose names don't go on the usher's logs?

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THE WITNESS: That's correct.
MR. KRAVITZ: Or are you talking about the people from the First Lady's staff who are on the list that gives them unchallenged access throughout the residence, or is that the same -- are we talking about the same group?
THE WITNESS: We're talking about some of the same people, yes.
MR. KRAVITZ: But it's not the entire group or it's not entirely --
THE WITNESS: No. Maggie Williams would have unchallenged access to go up.
MR. KRAVITZ: Viet, maybe what we should do is ask him first to name everyone he can think of who is on the unchallenged list and then have him from that, from that list tell us from one -- which ones get put on the log and which ones don't.
BY MR. DINH:
Q That's perfectly fine. This is not to trick you or anything, not a quiz, just to the best of your recollection or memory. We will request the list from the Secret Service so just for the sake of

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clarity, if you can just give us --
A Because it does change according to who may hold a position, the President's chief of staff, Mrs. Clinton's chief of staff; Capricia Marshall, Carolyn Huber.
Q Is Patti Solis on the list? She's the First Lady's scheduler.
A Early in the Administration she was on the list, I believe. I haven't seen that list for some time. The times that I know recently that in particular Patti Solis would go to the second floor, she would be logged in our log, as a remembrance once again for the family.
Q So we're still only talking about the access list. I'll get to the log a little bit later.
A Yes. And I haven't seen that list in some time. I've given you the names of the people that I know right now who, in the recent past, have unchallenged access.
Q Okay, great. We will request that list to verify for sure, but now moving on to the people who

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you have named as to be on this list who have unimpeded access, can you give me the names of the people who would have unrecorded access, that is access without any record in your log?
A Capricia Marshall, Carolyn Huber, to my recollection, are pretty much the only two because they have such frequent access because of the duties that they perform. I should also say that even people on that list who would come to the executive residence, when the President and First Lady weren't there, because we help protect the President's privacy would be asked, and they probably would show up on the list.
Q Would be asked what?
A Just for the family's personal knowledge.
Q So let's say the President and the First Lady are not in the residence, are not in the residence at the time Ms. Marshall wishes access to the third floor.
A She has unimpeded access.
Q She has unimpeded access, and in normal circumstances, she would not be recorded on a log?

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A That's correct.
Q But because the First Lady and President are absent, is her --
A She would not be recorded.
Q She would not be recorded, okay.
A And I mentioned Ms. Huber. Ms. Huber, when she would be escorting family guests, would be recorded because she'd be going up at the same time as the guests, so she's performing a bit of a different duty at that point when she's escorting guests.
Q Does that apply also with Ms. Marshall or does she ever --
A No.
Q So how is the procedure different when the First Lady and the President are not there? You were suggesting there was some different recording procedure when the President --
A Not different. We would just record it.
Q You would record it, the people on the list?
A Yes.

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MR. KRAVITZ: Viet, can I just ask one question --
MR. DINH: Sure.
MR. KRAVITZ: -- because I'm confused. I thought you said that even if the President and First Lady were absent, Capricia Marshall still would not be recorded?
THE WITNESS: That's correct.
MR. KRAVITZ: Is it the same thing for Huber? If Huber went to the third floor while the President and First Lady were absent, would Huber be recorded?
THE WITNESS: No.
MR. KRAVITZ: So how -- if those are the only two who don't get recorded even when the President and First Lady are there, how is there any difference when the First Lady and the President are gone?
THE WITNESS: If anybody else other than those two were to --
MR. KRAVITZ: But I thought you said -- for example, let's just use an example Leon Panetta, if

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he goes up to the third floor and the President and First Lady are there, does he get recorded?

THE WITNESS: Yes.

MR. KRAVITZ: What if he goes up there when they're not there?

THE WITNESS: One of our staff would go with him.

MR. KRAVITZ: Would it be recorded?

THE WITNESS: Yes.

MR. KRAVITZ: So I guess it's the same --

THE WITNESS: The thing about it is that these logs are not -- that we keep are not official logs, they're informal logs for the family's information, and we try and keep information for them.

BY MR. DINH:

Q So the logs remain the same whether or not -- information contained in the log, that is who was recorded as far as the entries and exits, remain the same whether or not the President and First Lady are there?

A Say that again, I'm sorry.

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Q The people whose names are recorded on the log are the same whether or not the President or the First Lady are present in the residence; it's only with respect to your accompanying people with access when the President and First Lady are not there that is different?

A Yes, I believe that's the case.

Q So in essence, when the President and First Lady are not present in the private quarters, that is they are not in the residence, even people who are on the access list get accompanied because of your concern for the First Family's privacy?

A Yes, with the exception of Carolyn Huber and Capricia Marshall.

Q They pretty much have the run of the place?

A Capricia Marshall spends a good deal of her time on the second floor of the residence and in the usher's office, conducting the business that she does.

Q And on the third floor?

A I have to assume so. We do not keep a log that indicates people moving about once they go above

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our level, because that is once again -- that would be an invasion of the family's privacy.

Q Do you, in your professional capacity and your daily duties, have reason to go into the third and second floors?

A Yes.

Q And from that experience, independent of the logs, do you see Ms. Marshall and Ms. Huber in the third floor?

A Yes.

Q Regularly?

A Yes.

Q What about Susan Thomases, is she on the access list?

MR. KRAVITZ: Right now or at some other time?

BY MR. DINH:

Q Say in August of 1995.

A No, I don't believe so. But once again, that access list is maintained, as are the official records, maintained by the Secret Service, so I'm really telling you something that's a document that

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the Secret Service maintains and that I don't. So if there was an access list that was provided to the police on July 1 that covered that period, and I haven't seen it, I don't know that.

Q Right, I understand. I just wanted to -- just wanted to see if you, to the best of your recollection or knowledge, knew that she was on the list.

A I don't believe so.

MR. KRAVITZ: Can I ask one more question?

MR. DINH: Sure.

MR. KRAVITZ: I could be wrong, but I think there are some instances on the usher's logs that we've been sent where Carolyn Huber's name is on there, but it does not indicate that she is accompanying a guest, she's just on there by herself. What would explain that?

THE WITNESS: I would have to see what it was, what the circumstances were. And once again, these are done by as many as five different people and somebody may have put that on there and just -- even though it wasn't necessary.

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Once again, there are no set procedures for this log. It's an informal thing that we keep. Once again, I hate to keep repeating myself, but it's something that we keep for the family's personal knowledge.

BY MR. DINH:

Q We're still talking about the usher's logs, we're not talking about the Secret Service logs.

A All right, fine.

Q Now, with respect to that, let me just clarify by showing -- and asking you to identify whether or not those are what we were talking about. Is this an example of what you refer to as your log?

MR. KRAVITZ: Could you say what you're showing him?

MR. DINH: I want him to identify it first.

THE WITNESS: It appears to be. It's -- it appears to be a computer printout or a print, whether it was by computer or by typewriter, but it's the kind of thing that we put, yes. It looks very familiar to me.

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BY MR. DINH:

Q Can you read the number at the bottom of that for me?

A S 020001. And this is certainly the form that we would keep the log.

Q And it says "the White House" up on top, and "Washington"?

A That's correct.

Q And has the date of the relevant --

A Of the specific day.

Q Can you tell me what OTR on the left-hand column means?

A Off the record.

Q What does off the record mean?

A That somebody requested that this be an off-the-record meeting. It's something that probably was not going to be publicized.

Q But you have it here on the record, as it were?

A That's correct. Quite frequently, it may mean that it's not on the President or First Lady's public schedule.

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Q By "public schedule," you mean the schedule that is released daily by the White House?
A Released to the press.
Q Is that done daily, do you know?
A What?
Q The President and First Lady's schedule.
A I have to say I believe so, but I don't know. That's something you'd have to ask the -- I'm not responsible for it, I can tell you that, so I really don't know.
Q And you said these logs are compiled from personal observation and from information from the official U.S. Secret Service logs?
A From the police officers. There may be occasions -- in fact, I know there are occasions when the officers have not written everything down, or have gotten some names wrong of individuals. And we try and balance between what we know and what they have written down and what we've written down to try and keep them accurate.
Q So let's say you have -- you know from your duties, the duty assistant usher has accompanied a

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guest up to the residence, up to the private quarters of the residence. And at the end of the day -- and he makes a notation of that. At the end of the day he checks the U.S. Secret Service logs and that particular entry by that particular guest was not on the U.S. Secret Service log.
Would you then put it on your official log?
A We don't compile the two at the end of the day, take the Secret Service log and compare it against ours.
Q You just compare it --
A We do not.
Q You do not.
A It's not a standard procedure for us, at the end of the day, to call the police officer and say we have this, you have this and compile them.
Q Do you do that at any point?
A No.
Q But I thought you said that you -- your log is based upon in part the information from the police officer's log.
A That's right. If they call me and say the

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President just got on the elevator and is going to the second floor, I might type that down at that moment, or I might be in the middle of a phone conversation, and I may return and write that down and forget the time; at which time, I'd call the police officer and say you called me a few minutes ago and said the President went up. Could you tell me what time you have in your log?

Q I see. That's an important point. So your logs are separate from the U.S. Secret Service logs?

A Yes. As I said, theirs is an official log. Ours is an informal log.

Q I'm going to show you a document numbered S 020325, and on the top it says "F1 movement log" and ask you if that is what you have seen to be the official U.S. Secret Service log.

A This appears to be the log that's kept by the police officers, yes.

Q And it has the individual's name and the times of up and down?

A That's correct.

Q Now, "up" means going up to the private

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quarters of the residence?

A That's correct.

Q And "down" means coming down from there?

A That's correct.

Q These are actual -- these are movements into either the second or the third floor of the residence, what we have now referred in shorthand as the private quarters; is that right?

A To the best of my knowledge, yes.

MR. KRAVITZ: Viet, if you think this is bad, just imagine if he has 23 people asking him questions like this in the Grand Jury. That must have been a real treat.

THE WITNESS: Enough said.

(Laughter.)

BY MR. DINH:

Q Given those procedures that you have described to us, is it possible for a person to enter the second or third floor of the White House residence without being recorded on your particular set of logs?

A Without being recorded on our logs?

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Q Yes.
A It's possible, yes.
Q Simply because you did not observe the person entering or exiting or --
A Other duties may have called the usher away --
Q From the duty desk?
A -- and he may not have been there to receive the call and it may not have been reconciled at a later time. Forgetfulness occurs at times. We are given information, and in the course of the actual activities, just may not have -- forgot to put it down.
Q What I showed you earlier and what you identified as your usher's log was a typed printout, it was not handwritten?
A That's correct.
Q Are your entries entered directly into the computer?
A Yes.
Q There is no written record, there's no logbook as such?

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A No.
Q And this computer is maintained at the duty officer's desk?
A That's correct.
Q Is it connected to the White House network?
A It is not.
Q It is a stand-alone computer?
A It is connected in-house in the executive residence. We have our own local area network and we do not connect to other instruments, and we do not have connectivity for the privacy issue reasons.
Q But it is contained in a local area network within the residence?
A Within the executive residence, that's correct.
Q Who else is on this network besides your staff?
A Besides --
Q Your staff, the 89 people.
A -- the 89 people. No one.
Q Do you give your staff any training in confidentiality?

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A Yes.
Q At what point do you give this training, when they are first hired?
A Before they're hired.
Q Before they are hired?
A That's why this is very difficult for me.
Q I understand.
A I talk about privacy with people before we even hire them, and let them know that one of our responsibilities is the First Family's privacy. And of the many people I've hired for the executive residences, it's the very first thing that I talk to them about after they're interviewed by the various areas where they may be working, the supervisors of those areas, and because I consider that a sacred trust, which makes this process very difficult for me.
Q I understand that. And this talk that you have with your -- with newly hired staff or prospective staff members, that's with everybody, each of the 89 persons?
A Without exception.

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MR. KRAVITZ: Well, is it clear, have you hired all 89 people who are there?
THE WITNESS: No, I have not.
BY MR. DINH:
Q There are 89 positions?
A There are 89 positions, and I have not -- many of them -- there's one gentleman that's been there as long as 50 years so I certainly didn't hire him.
MR. KRAVITZ: Viet, just the point that all of the people Mr. Walters has hired have had this conversation with Mr. Walters.
THE WITNESS: Yes.
BY MR. DINH:
Q Do you have weekly meetings with your staff?
A With my supervisors.
Q With your supervisors. How many supervisors are there?
A Let's see. I have two painters and I have one supervisor, two plumbers and one supervisor. Do you want me to run through all of them?

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Q Approximately how many supervisors do you have?
A 16.
Q You spoke earlier of the confidentiality as a private trust, a matter of sacred trust for your staff, or at least for you personally, and you try to convey that to your staff, those who you have hired since you've come on board. Is that the common understanding of the entire staff?
A Yes, it is.
Q Is it a safe assumption that the same talk was given to each of the prospective or recently hired staff members by previous head ushers?
A I believe so, yes.
Q And what sort of things do you tell these -- your prospective or newly hired staff?
A Basically what they hear and what they see on the second floor of the executive residence is the personal property of the First Family and belongs to them.
Q So that would include not removing any documents from the --

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A Unless they were told to do so.
Q You are also in charge of various carpenters and maintenance people. Does that also include -- do your duties also include hiring of outside contractors for various construction projects that are needed in the White House residence?
A Occasionally, yes.
Q For these outside contractors, do you have the same procedures in order to insure the confidentiality of information gained by the employees of the outside contractors?
A I don't have personal contact with each and every outside contractors' employee, but I do have some contact with the supervisors and make sure that they understand the privacy of the First Family -- that they're working in an area that does belong -- it's somebody's home.
Q With the expectation that that information or expectation would be imparted to their employees?
A That's correct, and that they will also be under the escort of some of the residence staff or the Secret Service.

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Q At all times?
A At all times.
Q At all times. And who are these escorts, besides the Secret Service? Who on your staff serve this function as escort for the outside contractors?
A Anybody on the staff could be put in that position.
Q And by "staff," I'm sorry, I was --
A Executive residence staff.
Q Executive residence staff.
A The 89. And the 89 includes me so it's 88 plus me.
Q So if, let's say, there was nobody available, you would ask a maid to accompany the construction workers and escort them?
A Unlikely that a maid would, but the housekeeper, the housekeeper's assistant.
Q How many people are in the housekeeper's staff?
A 18.
Q In this discussion regarding confidentiality and privacy you either have with

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newly hired employees, prospective employees or supervisors of outside contractors, do you make any specific mention of records or other materials other than information they see or hear, actually tangible records or other materials that are found in the White House, such as --
A I'm not sure I understand.
Q Do you tell them not to remove any records from the White House?
A I tell them not to remove anything. They're not supposed to remove furniture, they're not supposed to read the magazines. These are personal property of the Family and they are to leave things where they find them. And if they need something moved, whether it be a piece of furniture or a carpet, they are to notify the escort that's with them, and we will get the proper individuals to move, in most cases, what amounts to antique furniture.
Q Right. How about something not as big as furniture? How about, say, a book that is in their work area?
A As I said, they are not supposed to move

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magazines, books, anything.
Q Right. So if they see a book that is in the area where they're supposed to be doing work, and obviously they cannot do work with that there, they would notify the escort who would then move it or would get somebody else to move it?
A That's correct. That's the procedure.
Q And I take it that includes something like an 11-by-17 -- like 117 pages of 11-by-17 printed records?
A It includes everything.
Q Let me ask you specifically about two construction projects that I believe occurred sometime around the time period between July and August of last year, July and August of 1995. And I would ask you some specific questions regarding these projects.
First is a project I believe to deal with the HVAC system.
A Correct.
Q When did that project start?
A June of '93, I think was the award date of

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that contract with subsequent on-site activity by the contractor later that summer. I don't remember the specific date.
Q 1993?
A '93 was the award date of the contract, if I'm not mistaken.
Q On-site later that summer in 1993?
A Later that summer.
Q When did the project conclude? It's still going on?
A Sometime in the future.
Q Hopefully.
A Hopefully. Well, it will conclude.
Q Specifically with respect to an area of the third floor of the residence, of the White House residence, and the area surrounding the book room and the exercise room and Mrs. Clinton's office on the third floor of the White House residence, when did the HVAC work occur in that specific area?
A There was early survey work that occurred in 1993, and on and off for the last 2-1/2 years there's been work in those areas. That's one of the

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principal areas on the third floor that has received work. In fact, in the exercise room that you just mentioned, there's an access point to a crawl space, and that's for the southwest corner of the building; on the third floor that's the access point, so there was survey work that went on. As to what specific days there was access there, I don't know off the top of my head.

Q Was there work in that area around July and August of 1995?

A Yes.

Q Specifically with respect to this access point to the crawl space?

A Yes, and the other areas that you mentioned.

Q There is no such access point in the book room; correct?

A Access to the crawl space?

Q Yes.

A That's correct.

Q Was there any specific work done with the HVAC system in the book room?

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MR. KRAVITZ: When?

BY MR. DINH:

Q In July and August of 1995.

A There was -- I'm specifically familiar with some ceiling repair that had to be done in that room.

Q Right. That's the second construction project to which I will refer.

A This is in 1995 we're talking about, July and August. And at one point we punched some holes in the walls, but I don't remember specifically -- I don't have the documentation as to what rooms and what specific dates holes were punched in the walls to allow ductwork and utility conduit to be put through various areas.

Q Other than the ductwork and utility conduit, were there any other -- and I take it in order -- other than ductwork and utility conduit, was there any other work relating to the HVAC project in the book room, in July and August?

A July and August of '95?

Q Right.

A Part of that time I was on vacation, so I

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can't specifically refer to the latter part, in August. And there was a considerable amount of work that went on during that period because we were getting ready for the Family to take a vacation at the end of the summer. And it was during that time when we were going to do a considerable amount of work.

Without having specific documents here to refer to, I can't specifically say that I've described to you everything that went on in that room, but to the best of my knowledge, the punching of the holes in the walls and the ceiling repair are the only two things.

Q When you're talking about "specific documents," are you referring to -- what kind of documents are you referring to?

A The National Park Service, whose project this is to manage, maintains a work log which is general in nature, but it gives the general areas that each contractor worked during the day. And that document is produced by the contracting officer's representative, who is the one that verifies whether

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or not the contractor is doing the work that they are being paid to do.

Q It's part of the contract administration process?

A Administration, that's correct.

Q I'm going to hand you a document numbered S 020087 and ask you if this is the kind of document that you were talking about.

A Yes, it is.

Q Very good.

A As it says, a daily log of construction.

Q We do have these documents for you to refer to. Perhaps we will take a break a little bit later and ask you to look through them briefly. And I'll go into more specifics regarding this area, but for now let's move on to the more general points.

Can you tell me when you went on vacation last year?

A I'll have to look at my calendar.

Q Please feel free.

A This was July and August of '95; right?

Q Yes.

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A I was on vacation from the 4th of August; I believe I returned to work the 23rd of August.
Q Who performed your duties, I guess, as acting chief usher when you were on vacation?
A The duty ushers have that responsibility as part of their operation. My primary assistant is Mr. Dennis Freemyer, who is also the supervisor of this specific project and other projects at the White House in the executive residence.
I make the distinction between the executive residence and the White House because I'm talking about the building in which the President lives.
Q And you are responsible for the executive residence?
A Not the wings, which belong to the General Service Administration as office space.
Q Can you spell Mr. Freemyer's last name for us?
A F-r-e-e-m-y-e-r.
Q When you said he was responsible for this particular project, you mean the HVAC project that

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we've been talking about?
A Yes.
Q Let me ask you some general questions again, and then we will later ask you to look at the daily construction logs in order to refresh your memory with respect to this or to verify your testimony, but let me ask you some general questions regarding some construction that was done in the office of the First Lady --
A All right.
Q -- on the third floor.
A You're talking about third floor?
Q Right. As I understand it, this office is off the hallway from the book room.
A That's correct. Well, it's off the hallway. I wouldn't say it's off the hallway to the book room.
Q Off the main hallway?
A There's a central corridor, and that office is off of that corridor, as is the book room.
Q And they're next to each other, the entrances?

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A Kitty-corner across.
Q When you say "kitty-corner," approximately how far are the entrances apart?
A The entrances to the room are about 8 feet apart.
Q But "kitty-corner," meaning they form an L?
A One door opens to the south, the other door opens to the west.
Q Thank you very much. It's sort of hard to get graphic images into words, I understand.
Now, was there some construction work done in the office of the First Lady at or about this time; that is, July and August of 1995?
A Yes.
Q And what did that work include, entail?
A It entailed running ductwork and conduit in a closet that's in the northeast corner of the room, and there was other work that was done. The diffuser in the ceiling which departs air to the room was modified, but I can't remember specifically the dates when that was done. And I'm not aware of any other work that was done in that room, no.

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Q Approximately -- now, I've said July and August of 1995. Within that time frame, can you give me a more specific identification as to the dates with respect to the closet, the ductwork for the closet?
A It was either late in July or early August because once again, this was done in preparation for the work that was going to be taking place when the President and First Lady were out of the House.
Q Right. I take it the work, the ductwork and running the conduit in the closet, required the removal of all contents of the closet?
A That closet was going to be taken up in its whole. That closet was going to be used as a chase, if you would, between floors, and it was going to no longer be a closet.
Q Okay. So it would be taken out of its operation as a closet?
A That's correct.
Q Has it been successfully shut off for use as a closet?
A Yes.

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Q So the door does not open now?
A If it does, it opens into ductwork. I don't specifically remember opening that door recently. Once again, that portion of the project was run specifically, on a day-to-day supervisory side, by Mr. Freemyer. And he would know better than I the specific date that that closet may have been requested to be emptied or certainly in a time frame, and whether or not there's any door there, there's a minuscule amount of room. I'm just not that familiar with it.
Q Right. That's fine. So to ask you to state the obvious, obviously all the contents of the closet had to be removed prior to any work being done to convert this closet into an entire duct?
A Yes.
Q And I take it the construction workers did not do that?
A No, they -- I didn't see it emptied and I don't know the specific date that it was emptied, so I can't say specifically that they didn't do it, but that would not have been the process.

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The process would have been that they would have requested the closet be emptied by a specific date. And our staff would have taken care or would have requested that it be emptied. I just -- I wasn't involved on a day-to-day basis like that.
Q Okay. And if there were any materials remaining in the closet when the construction workers came, in order to perform the work, again the procedure would be for them to contact a staff member, their escort or another staff member, to remove any such materials from the closet?
A That's correct.
Q Before they begin work?
A That's correct.
Q They would not remove it themselves to another place?
A Procedures wouldn't call for them to remove it, but not being there, I can't specifically say.
Q Great.
MR. KRAVITZ: Would there be any kind of record of when the closet was emptied?
THE WITNESS: Unless there was something

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that caused the contracting officer's representative to write it on his log, his construction log, I don't know where else it would be recorded because this was the kind of thing we were doing in a number of places.

BY MR. DINH:

Q Would that request for a closet to be emptied by a specific date have been made most logically to Mr. Freemyer?

A Or one of the other assistant ushers. Anybody in the office may have relayed that request, or had that request made of them.

Q Do you know what happened to the contents of the closet?

A I do not. In fact, I don't even know whether there was anything in the closet.

Q Exactly. Thank you. Because you did not personally supervise the work nor did you personally witness the closet being emptied?

A That's correct.

Q Now, let me ask you about what I referred to as the second construction project, when I started

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off this line of questioning regarding construction projects, and you alluded to it briefly. And by that I mean, the ceiling work --

A There's not a separate project.

Q It's not a separate project?

A Part of the same project. By virtue of the work they were doing on the HVAC project that caused the ceiling to rupture, if you will, and that's what caused the ceiling to have to be repaired.

Q I believe Ms. Capricia Marshall's words were "I thought a man was going to fall on me."

A I think that was the image that she conveyed to us.

Q Do you remember approximately when this was?

A I don't. I do remember seeing a document at some point from the construction project that indicated ceiling repair, but I don't recall that specific date.

MR. KRAVITZ: Did he say which room this happened in?

MR. DINH: This was in the book room.

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BY MR. DINH:
Q Do you remember approximately which corner of the book room the ceiling was in need of repair?
A I do not.
Q Do you remember approximately how long it took to repair the ceiling?
A I don't have a specific recollection of days but it would have been done in a time frame when we would have had access to the area by the contractor and also would have depended on the necessity. If it had to be plastered and then had to dry and then be painted, it could have taken as long as a week. It probably took somewhat less time.
Q Now, was this work being done by the sub -- by the HVAC contractor or would it have been done by your own carpentry and other maintenance staff?
A There were a combination for the convenience of the contractor and for the -- our convenience and privacy of the Family by virtue of our staff having access. There were a number of ceilings and other places that were repaired, interior finishes that were done in combination,

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solely by the contractor, or solely by our staff. And I do not specifically remember who did all of the finish work. But since I did see it on the contractor's log, it's obvious the contractor did some work.
Q Right. On the --
A They may have done the plaster work and our staff may have put the finish coat of paint on there.
Q Now again, would Mr. Freemyer have more direct supervisory knowledge regarding this project?
A Yes, he would.
Q Let me turn now to the main focus of the reason why we asked you to come here, and as you probably know, it is the discovery of some documents in the book room itself. Can you describe for me generally your recollection of the book room?
A The physical layout?
Q Yes, the physical layout of the book room.
A It's a room that is a rectangle that's approximately 20 feet by 12, 15 feet. It has two entrances into the room, one from the hall that we've already spoken about before, the central corridor,

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and one from a small hallway which leads -- a hallway which leads between the first and second -- number 1 and number 2 elevators.

You have to enter the book room, as you've referred to it, and go -- to be able to get into either the exercise room or a housekeeping area where there's linen storage and also an ironing board that the maids use for ironing.

Q And they do the actual ironing in the linen room?

A Some of it.

Q This back hallway, this other entrance, not the entrance from the main hallway but this second entrance to the book room, you said that that leads to a hallway that connects elevator number 1 and elevator number 2?

A That's correct.

Q Who uses that hallway primarily?

A Primarily the residence staff.

Q And I take it, in addition to the elevators, there are stairways next to elevator number 1?

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A Adjacent to elevator number 1 is the stairway that goes all the way to the lower level. There is a door, if you're standing in elevator 1 looking at elevator number 2, there is a door that has an automatic closer on it that's closed all the time.

So once you go toward the west from that elevator, there are a series of rooms that belong to various members of the residence. I say "belong to," are used by various members of the residence staff. The maitre d' has his office there, valets to the President have an office and work space, the chefs at the White House. And then that corridor goes back to the second elevator, where the second elevator entrance is there are two half -- partial stairways that go to the outside promenade, but there's no additional stairway.

Q The other stairway that leads only down to the second floor is not in that corridor?

A That's correct.

Q Can you describe for me the contents of the room beyond the physical layout? By that, I mean the

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furniture in the room, what else is in the room, bookshelves?
A When?
Q July and August of 1995.
A During that period, it may have had a number of things in it, because the room had a changing character. It was used as a partial storage room. It certainly had bookshelves in it that housed books of the First Family. There was a number of tables in there at different times that were put in by our staff, folding tables.
During that period there may have been a computer in that room, there may have been a small desk or a table that was used as a desk. There have been a couple of file cabinets in the room.
Q Are there bookshelves lining the walls of the room?
A Bookshelves lining the walls of the room, yes.
Q Let me ask you to take a look at a rough sketch that we have made up of the book room, and ask you to study that and see if it comports with your

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recollection of the contents and layout of the room at this time; or if it differs from your recollection, where and how.
MR. KRAVITZ: When you say "at this time," do you mean now or --
BY MR. DINH:
Q At this time, July and August of 1995.
A Well, the first thing that I see is that this room, the proportions of the room are incorrect. It is longer than it is wide. This shows from -- if I can, the side that's closest to me, as I'm looking at it, is the eastern side of the room, and that is a long wall, as opposed to the south and the north walls being long walls. So the proportions of the room are incorrect. It is longer north to south than it is east to west.
Q Can you -- this does not have a compass on it. Can you put which direction is north and south?
A Okay.
Q Anywhere on there.
A The easiest way to do this, I guess, is this is west, this is north, this is south and this

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is east (indicating).
Q Great. So the north/south proportion is the 20 feet wall?
A That's correct, roughly.
Q Roughly. And the east/west proportion is the --
A 15 or 12.
Q 12 to 15 feet. Other than that, can you study the layout and the materials in the room.
A What it shows here as the northeast corner says filing cabinets. There are additional bookshelves there. The tables in the room, I don't know what period of time this would be, but there could have been -- these tables were in various positions in the room. There may have been one table, there may have been three tables, I think.
I remember as many as three tables in there. And they were in various forms in various periods because this is a room where things were put and disseminated from this.
Also, the door to the exercise room is closer to the entrance to the main Hall.

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Q So more east?
A It is more east, that's correct. It's more up in the corner here.
There is also a second door that is not shown from the main corridor, there where it says "two black boxes" --
Q Can you take my pen and draw in that door for me?
A Sure (indicating).
But that door is closed because there is usually something in front of that door and it is not a used entrance.
Q Right, right. Can you draw the approximate location of where the entrance to the exercise room is to the main hallway as you stated?
A (Indicating.)
Q Great. You stated that, during this period in July and August of 1995, there were times that you have noticed as many as three tables in the room?
A I believe so, yes.
Q Okay. Were these tables of different sizes?

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A We have in our inventory 5-foot, 6-foot and 8-foot folding tables, and any configuration. I don't make a distinction between the sizes. They're all the same and if it was a 5-foot or 6-foot or an 8-foot -- there have been times when it depends on the amount of things that were in this room determined the size of the tables. Quite frequently I think we put 8-foot tables in there, but I couldn't distinguish.

The other thing I think needs to be said here is, these two doors from the main corridor; one which is blocked and is not a useable door, and the other door have automatic closers on them. And these doors remain closed, as does the door adjacent to elevator number 1, which closes off this area (indicating).

Q The door adjacent to elevator number 1 is not a door --

A That looks down to elevator number 2.

Q In the back hallway it is not a door into this room?

A That's correct.

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Q Is there a similar stop, automatic stop mechanism at the other entrance into the book room, the entrance into the back hallway?

A No, no.

Q Is that generally -- does that door generally remain open?

A Yes.

Q Is there a door, an actual physical door, to the exercise room?

A Yes.

Q Does that have an automatic stopper on it?

A No.

Q Does that generally remain open or closed?

A Generally open.

Q The linen room, is there a door there?

A Yes, there is.

Q Generally open or closed?

A Generally open.

Q But so the only door that is almost always -- except when it's open and held open -- that remains closed is the access to the main hallway?

A The two doors that have access to the main

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hallway have automatic closures on them, and unless they are physically in use or somebody propped them open, they are normally closed.

Q Now, you said with respect to the tables, you described them as 5-foot, 6-foot and 8-feet folding tables. Are they all folding tables, the 5-foot --

A The ones that we have in our inventory, yes.

Q Now, when you say folding table, is it like a card table, is it light, or is it like made out of oak?

A Aluminum. They're aluminum. We do have some in the inventory that are light plywood that have legs on them, but they're all relatively light tables. They're not heavy like the table we're sitting at.

Q Generally the kind of tables the caterers use that have folding legs and are easily transportable?

A We don't like to think of caterers at the White House, but yes.

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(Laughter.)

Q Now, in July and August of 1995, to the best of your recollection, was there a table, either 5-foot, 6-foot or 8-foot in size, in the book room that contained on it a number of books, memorabilia, maybe even boxes of materials?

A It's seldom that there weren't tables in there with things on them.

Q And that includes the period of July and August?

A Yes.

Q Do you have any specific recollection of seeing such a table in July and August of 1995?

A There were tables in there during that period. You know, as to what day tables went in and tables went out, I just have no specific recollection.

Q And there were clutters of memorabilia and books and the like on the table or tables?

A From time to time. They would go there and decisions would be made as to where they would go, whether they would be going to the archives, whether

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they would go to a personal office, whether they would go to a staff person. I mean, decisions were -- that was where things went.

They were spread out, decisions were made of where they would go; dissemination, I guess would be the best way to say it, went from that room.

Q So it's sort of like a collection and distribution point for materials?

A Yes.

Q Decisions would be made. By whom?

A This was the Family's personal area. You know, I -- the President and First Lady, but I never was in there when they were making a decision that this goes here and that goes there. Carolyn Huber, Capricia Marshall -- now we're talking specifically about the time frames of July and August, of course.

They were gone for part of August, so they certainly wouldn't have been making decisions at that time because they weren't there.

Q Right.

A But we've quite infrequently interacted with the decisionmaking process as to where things

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would go. We would usually be called upon after the decision was made as to what pile would go to what various area.

Q Called upon in order to help transport these materials to various areas?

A That's correct.

Q And who usually calls upon you? Is it Ms. Huber or Ms. Marshall?

MR. KRAVITZ: You mean relating to stuff in that room?

MR. DINH: Yes.

THE WITNESS: Yes.

BY MR. DINH:

Q In regards to moving it?

A Quite frequently it is, yes. And that call would go to the usher's office, whoever was on duty would take that call, and as a matter of routine would ask that somebody be sent to that area.

MR. KRAVITZ: Is this a good time to take a five-, 10-minute break?

MR. DINH: Sure. That would be fine.

(Recess.)

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(Walters Exhibit 1 identified.)
MR. KRAVITZ: We have -- while we were off the record, we have marked as Exhibit Number 1 this drawing that Mr. Walters has been testifying about and marking on.
Could you read back the last question and answer, please.
(The reporter read the record as requested.)
BY MR. DINH:
Q We were talking earlier about -- before we went off the record -- about the calls that either Ms. Huber or Ms. Marshall would place to your office in order to seek assistance to move materials from the book room to the various places that they were to be moved to.
Do you recall any such calls for assistance either at the end of July or beginning of August 1995 from Ms. Huber?
A Nothing that would have stuck out in my mind. It's a rather routine set of circumstances. Also, you referred to a call; quite frequently it happens in person. She may stop by the office and

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say I have a box, a stack of books that need to be taken here or there. Could somebody please move them for me.
So it doesn't necessarily have to be a telephone call.
Q Does she do this on a weekly basis?
A It could be weekly, could be daily. It could be multiple times a day. It would depend on the activity level.
Q As needed by her?
A That's correct.
Q And you don't specifically recall any particular --
A There's nothing that sticks out in my mind.
Q How about a call from Ms. Huber to request something to be moved from the book room to her office, would that --
A Rather routine, falls in the same category.
Q And nothing sticks out in your mind with respect to this time period?
A No.
Q Within the last week, did somebody in the

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White House counsel's office contact you to ask you the same question with respect to people who may have moved Ms. Huber's materials from the book room to her office?

A No. I think the only contact I had was about this meeting today.

Q Who would be the persons whom you send to help Ms. Huber? Who would be the normal persons to help move materials from the book room to, say, her office?

A Routinely it would be our operations crew who move furniture, who set up each day for the tours. They're the ones that are primarily responsible for moving things. Were they otherwise occupied, we could have called on any number of people on the staff, on the residence staff to see that the tour was done. And it also would be determined by the time of the day. If it was 6:00 in the evening and the operations staff had departed for the day, they would probably call on the engineers, the operating engineers, the people who operate the HVAC equipment.

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Q How many people are in the operations staff?

A Seven.

Q And how many engineers are there?

A 10.

Q Do you know if the White House counsel's office asked one of your assistants to ascertain whether any of these people recall helping Ms. Huber move something from the book room to her office in July or August of 1995?

A Not to my knowledge.

Q And I take it, just to close out the loop, that you do not know, if Ms. Huber had requested such assistance to help move boxes from the book room to her office in July or August of 1995, you would not know who helped her?

A It may have been me. I just don't -- unless there was something that called it to mind to force me to remember it, because it was something that happens so routinely.

Q None of these people came forward to you and said oh, I helped Ms. Huber move some boxes in

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that particular time period, within the last -- nobody came to you since January 4, 1996 to tell you this, nobody on your staff?

A No.

MR. KRAVITZ: Just so you know, January 4, 1996 is the day that Ms. Huber has testified she recognized these records in her office.

THE WITNESS: Just going back, if I can, you asked me a few minutes ago about if the counsel's office asked me if any of my staff moved -- had a specific recollection, and I'm sorry to say, they did. I just didn't remember that.

BY MR. DINH:

Q Okay.

A I received a call -- and I don't remember what specific day it was -- about the operations staff and I did specifically ask the members of the operations staff and the members of the usher's office if they specifically remembered moving things for Mrs. Huber during that July and August period, and they all said yes, but it happened so routinely that nothing sticks out in our mind. It could have

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been July 1, it could have been August 20, it could have been July 31. It was something that just happened routinely and nothing stuck out in anybody's mind.

So I correct myself. I did get that call. But you said within the last week and I just don't remember whether that occurred in six days, seven days.

MR. DINH: That's fine.

MR. KRAVITZ: And there's no record -- there are no records kept when ushers assist someone like Ms. Huber in moving something?

THE WITNESS: No, there are not.

BY MR. DINH:

Q So the answer you got back was that no specific recollection of any one particular time that they may have helped Ms. Huber move boxes from the book room to her office, although it may very well have happened because it was such a matter of routine?

A That's correct. And I asked that specifically of the operations section and my staff,

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the usher's office.
Q Right, the seven persons in the operations section?
A That group plus the people in the usher's office, to include one person who is not an assistant usher but who from time to time may fill in in the usher's office if we have to get up and go out and take on some other activities. I asked that individual also.
Q Great. And these are the universe of people who would normally or routinely --
A These are people who on a routine basis would do something like this.
Q Great. And needless to say, if you come across any information, if anybody tells you subsequent to this deposition that they indeed have a specific recollection of such assistance, I would ask you to contact either me or Mr. Kravitz.
A Certainly.
Q Thank you. Let me refer you back now to Deposition Exhibit Walters 1, which is the layout of the book room which we had earlier asked you to mark

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upon and make alterations on.
I take it, then, that any person who wishes to use the exercise room would have to walk through the book room?
A That's correct.
Q Approximately how far apart are the entrances to the book room from the main hallway and the egress from the book room into the exercise room?
A I'm sorry, state that again?
Q Approximately what is the distance between the door to the main hallway and the door to the exercise room?
A Approximately 8 feet.
Q 8 feet. And they are again kitty-corner as you have described it earlier?
A That's correct.
Q So one would just open up the door -- if one wants to go to the exercise room, one would just simply open the door into the book room and then walk about 8 feet to the exercise room?
A That's right; approximately two strides, yes. Unless they came in the other door.

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Q Unless they came in the other door, and the primary users of the other door, you testified earlier, were the executive residence staff?
A That's correct.
Q The guests would not enter through the other door?
A Not under normal circumstances.
Q Have you ever seen a guest enter through the back hallway and elevator?
A I've never seen a guest enter through the back hallway, no.
Q So it's safe to say if a guest wants to use the exercise room, he or she would just walk two strides from the main hallway to the exercise room?
A That's correct.
Q And likewise for the President or First Lady?
A That's correct.
Q Who else uses the exercise room that you've observed?
A That I have observed?
Q Yes.

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MR. KRAVITZ: What time period?
BY MR. DINH:
Q Let's say within the last year, who uses it?
A That I personally observed, it has only been either the President or the First Lady.
Q Do you know anybody else who uses that exercise room on a regular basis?
A I do know that some house guests, because I've been told by some of the staff that some of the house guests were in there, and I believe Ms. Marshall, Ms. Marshall has used it on occasion, but I didn't see any of those individuals in there. By virtue of needing access to the room for cleaning and that's the way I become aware of other people being in there.
Q So it would be the people who would use -- the universe of people who uses the exercise room with the First Lady, the President, some guests and Ms. Marshall?
A Yes, to the best of my knowledge.
Q To the best of your knowledge, that's all I

can ask.
What about to the linen room? You testified that some of the housekeeping staff uses that in order to do some ironing work.
A Oh, there's considerable amount of access into that linen room. It's not just the housekeeping staff because that room also houses table cloths, so it could have been any of the food and beverage service staff, the butlers, the maitre d', the executive housekeeper, the florists who may have the responsibility for retrieving cloths, the maids, any of the maids who may have to do ironing; the housekeeping staff in general.
Q Approximately -- I don't want you to go down the list of your employees and positions, but approximately how many people is that universe?
A The number is somewhere 25, 28, although I should add that there would be reason for other staff members to occasionally go in there.
Q Understandably.
A Operations staff to move something, engineers to check on the heat and air conditioning

in the room, so -- but just on a routine basis, the kinds of people that I've identified would be the ones that would go in there.
Q Okay. Now, let me move around the room a little bit more and move to the other entrance into the book room. That is the entrance which we have labeled as the entrance from the back hallway and elevator; that is, elevator number 2.
A Yes.
Q That elevator and hallway you've testified earlier is used primarily by the executive residence staff?
A That's correct.
Q All members of the executive residence staff, or is it mostly housecleaning and butlers, or do all 88 people generally use that service elevator?
A If they have cause to be on the third floor, that's principally the way that they would get there, would be to use the number 2 elevator. Certainly anybody having reason to interact with the housekeeping staff would use that elevator and that hallway.

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I should note that the way the diagram is shown here is not correct, and I didn't point this out earlier. The hallway appears from this diagram to come down and go directly into the room, and then there's a bookcase and a closet that is shown here. Actually there are -- the closet is in one, and the hallway is adjacent, or on the north side of that.

Q So can you just draw that as you would think it?

A If I can point out, this wall goes over, and therefore, the hallway to the elevator, they're out here.

Q I see. So the door is here (indicating)?

A The door is there.

Q There's a little bit of like a foyer or whatever it is, a little bit of a dead space right there?

A Not really. This closet area kind of dead ends into this and the doorway is in the middle of that.

Q I see, I see. Now, is there another way from elevator number 2 for the executive residence

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staff to gain access to the main hallway, or is traversing through the book room the primary way a person would go from the back hallway and elevator number 2 to the main hallway?

A No, they would very unlikely go through what you referred to as the book room. They would go from elevator number 2 down the hallway, open the door outside of elevator number 1 and enter into the central corridor via that hallway and not pass through the book room.

Q Right. And that door that you were talking about is that automatic shutting door that separates the corridor between elevator number 1 and elevator number 2?

A Correct.

Q And this is not a primary shortcut or something like that for executive staff members to use?

A Once again, dealing with the privacy of the Family, since that's the entrance into the exercise room, we would encourage people not to go through there; to use the corridor, the hallway.

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If I can go one step further in explanation, in fact, if the elevator is at the end of that hallway, north of that elevator is the staircase, and around the periphery of that staircase is an entrance into the linen room. And we would encourage the staff to not even traverse the center corridor, the main hall.

They would come from elevator number 2 down the small hallway, open the door, walk out into the elevator landing, then turn to their left, or north, walk out into the stair well landing, walk around the stairs to get out to the area where they would -- what we refer to as the linen room, where we have the majority of the household linens.

Q So just so I understand it, this convoluted process that you just described to me basically, the policy behind it is that you want the staff to remain outside of the private area of the President and First Lady's residence as much as possible?

A At all times we try and preserve their privacy.

Q Unless there's a specific reason to enter

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that space?

A That's correct.

Q Is the book room part of that space?

A Which space?

Q Of the private space that the staff is encouraged to remain out of unless there's specific reason to be in it.

A Yes.

Q I'm sorry, and you were referring to the linen room. Is that the same linen room as we're talking about here?

A No, it is a smaller linen closet, as it were. It is a room where table linens are stored as well as an ironing room. The major linen room for the White House is over the north portico, which is somewhat removed from this area.

Q Now, on -- you've testified --

MR. KRAVITZ: I just want to make sure that the record is clear what we're talking about. Correct me if I'm wrong. Is what you just said that what's marked here "linen room" on Exhibit Number 1 is in fact a linen closet, or is that -- am I wrong

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about that?
THE WITNESS: He said closet and I corrected him to say that it is in fact a small room that holds table linens, as well as an ironing board, and there's considerable amount of ironing that's done in there.
There is another room that is referred to as the linen room, where all the house -- majority of the housekeeping linens are maintained, bed linens, the towels and so forth.
MR. KRAVITZ: Which were you referring to when you were describing the back way into the linen room?
THE WITNESS: To the major linen room.
BY MR. DINH:
Q The small room that has some table linens -- sorry, but I just want to clarify this. The small room right off the book room that has some table linens in it, do you have to go through the book room to get into that or is there another way to get in there?
A No, you have to go through the book room to

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get to the table linen room, if I could change the nomenclature on here.
Q Why don't we do this, to the table linen room.
Are there table linens in the main linen room?
A Occasionally.
Q On a daily basis -- you've testified that there are approximately 25 to 28 persons who would have reason to go into the table linen room that is off the book room. On a daily basis, how many of these people enter the table linen room?
A It would be according to the activities, but just as a general number, it would be fewer than six but could be more according to the activities.
Q Right, because you obviously have a state dinner, you would have all 28 running in and out trying to get the --
A That's correct.
MR. KRAVITZ: There was a lot of traffic in the book room yesterday. Didn't you say there was a state dinner last night?

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THE WITNESS: I think we rented the tablecloths yesterday, so that may not have been the case.

(Laughter.)

BY MR. DINH:

Q Now, let me ask you whether there was a state dinner in the period of July and August of 1995, if you can recall.

A If you don't mind, I'll check my calendar.

Q No, please.

A July and August of '95.

(Witness reviewed the document.)

Yes.

Q Would that have been the state dinner for the South Korean president?

A That's correct.

Q Do you recall -- I know this is stretching it a bit -- but do you recall whether you rented linen for that state dinner or whether you used the House linen?

A I don't specifically recall. It was a large state dinner. We had a tent in the West

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Garden, so I just don't have a specific recollection of whether we did or did not.

Q When do you rent and when do you use your own, as a general rule? What comes into that decision?

A A decision is made by the social office at the White House.

Q You don't make that decision?

A No.

Q Does it depend on the limited capacity of the house linens; that is, you only have a certain number of linens?

A Capacity, quality, color. There are numerous reasons.

MR. KRAVITZ: Did you say when that state dinner was?

THE WITNESS: I did not.

BY MR. DINH:

Q Can you tell me?

A July 27 of '95. There were numerous other events during the month of July, some of which were large events, that could have caused extra activity

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in the table linen room, but the state dinner specifically was on the 27th of July.

Q Now, we talked a little bit earlier about the very careful procedures that you've set forth with respect to moving records or books for outside contractors, within the White House. That is, if they find a record or book or any other material in their space and they need it to be moved, they wouldn't move it. They would have to contact a member of your staff or their escort in order to get it moved?

A That is the procedure, that's correct.

Q Do you have similar instructions or procedures or understandings with respect to your staff, the 88 people in your staff, regarding moving, handling of records or books or other materials in the White House?

A Routinely they would not move anything unless they were directed to do so, unless they were moving it to clean adjacent to it, and in that case they would place it back where they found it.

Q Right. There would be no reason for

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anybody in your staff, and specifically anybody in this 28-person universe who have access to the linen room, to, say, remove or transport or place any materials within the book room?

A Not without direction.

Q So is it safe to say that, even though they had access of necessity to the book room, in order to gain entry or exit from the linen room, their access would be limited to traversing the distance of the main hallway and the linen room?

A Well, they also had responsibility for cleaning part of the residence, pick up the trash which they did on a routine basis morning and evening. So that we had routine things that we did in the room, but in most cases they would just be traversing the room if they were going to the table linen room.

Q Right. You're highly confident in your staff regarding their privacy and confidentiality -- regarding your privacy and confidentiality concerns?

A Yes.

Q If you lose that confidence, is that cause

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for termination?
A It can be.
Q And I take it you constantly are monitoring the level -- if there is cause for you to believe that the duty of confidentiality and protection of the First Family's privacy has been breached by a member of your staff, you would monitor that and try to see who was responsible?
A To the best of my ability, yes.
Q That is a part of your function as a supervisor, as a chief usher of the White House?
A That's correct.
Q Given that and given your knowledge of the procedures and the usual activities of your -- of the 28 persons who have access to the linen room, would you say it likely that one of them could have placed a record or a sheaf of papers or other documents in the book room?
A Not without direction.
Q Would you say it would be highly unlikely that they would do so without direction?
A Yes, it would be highly unlikely.

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Q As a matter of fact, unprofessional, and in certain circumstances, cause for termination?
A Yes.
Q Do you recall at any time in July or August of 1995 any specific request made to you or to another member of your staff that you've since come to be aware of, of anybody moving -- placing records -- no, placing -- strike that.
Do members of your staff from time to time get requests to place things in the book room?
A They may receive requests to place something in there, if they have been asked to transport it from another location in the residence to that area, yes.
Q Is it as routine as the request to remove things from the book room as you've testified earlier?
A Yes.
Q Actually, do you have occasion in your general daily duties to pass through the book room?
A From time to time; not every day.
Q Did you do so in July and August of 1995?

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A Yes.
Q During this period between July and August of 1995, let me direct your attention to what I will identify as DKSN 028928 through DKSN 029043 and ask you whether you have seen these materials at any time in that period.
A July and August of 1995?
Q Yes.
A I have not.
Q Have you subsequently seen these records?
A Yes.
Q When was that?
A Before the Grand Jury.
Q It was shown to you at the Grand Jury like I am doing right now?
A Yes, that's correct.
Q Other than that time, did you see --
A Now, I should say that there are documents like that. I didn't go through all those so I don't know if that is that specifically.
MR. KRAVITZ: You mean it was documents like that that you were shown in the Grand Jury?

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THE WITNESS: That's correct.
BY MR. DINH:
Q And by documents like that, you mean a stack of papers approximately 1 inch thick, measuring 11- -- approximately 11-by-17, which are full copies of what seems to be computer printouts?
A Yes.
Q And did you see any other documents like that, that is that fits that description, prior to your Grand Jury testimony?
A I did not.
MR. KRAVITZ: You mean in the book room?
THE WITNESS: In the book room in '95 in July and August?
BY MR. DINH:
Q Yes.
A No.
Q How about anywhere else in the White House in July --
A I did not.
Q How about anywhere in the White House since July of 1995 to the present?

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A I may have seen some computer -- copies of computer printouts, but I didn't have any reason to look at them. Because of the National Park Service that I work with produces computer printouts of payroll records, but nothing like this, no.

Q And since Ms. Huber's discovery of -- and let me just tell you she discovered records like this on January 4, 1996 in her office and it became public several days later, January 6, 1996.

Since that time, have you had any conversations with members of your staff to determine whether they saw anything like this, documents that fit this description in the book room during the relevant period?

A I didn't ask them about specific documents, but as I related earlier, I asked the staff about whether they had any recollection of taking anything in particular -- I used the word "files" or "paper files," I believe, in that conversation, and none of them had any recollection.

Q Right. This was the conversation that took place approximately a week or so ago?

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A Yes, that's correct.

Q Other than that conversation, did you have any other discussions with your staff regarding -- after the revelation that Ms. Huber had found records like those, did you talk to members of your staff about this?

A I'm sorry, could you say that again?

Q I'm sorry, that was very convoluted and I apologize for that.

Other than the inquiries you testified to earlier of the operations staff and of your ushers in the past week, other than that, have you had any other discussions with your staff relating to the circumstances of the discovery or movement or handling of what we would refer to as the Rose Law Firm billing records?

A No.

Q And I would represent to you that these are the "Rose Law Firm billing records," and you're familiar with them in the sense -- the general information regarding them?

A In the newspaper, references.

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Q Aside from newspaper references, have you heard any discussions in the White House of "the Rose Law Firm billing records"?

A I'm sure at some point in the usher's office, as we read the morning newspaper, there may have been some conversation. But I don't remember specific conversation, nor did I ask anybody whether they were specifically aware of the documents.

Q Right. Did you glean any additional information from these conversations or discussions?

A I did not.

Q Other than the newspaper, okay.

And you mentioned to me earlier that you had talked to a member of the White House counsel regarding your testimony here today. Can you tell me the nature of that conversation?

A I didn't talk to them about my testimony here today. To set up the testimony here today, they gave me the name of the individual to contact.

Q Simply just the fact that you have to contact somebody in order to arrange for a deposition?

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A That's correct.

Q You did not discuss the substance of your testimony here today?

A I did not.

Q Now, I know you testified in general that you have not seen records like this in the book room during the relevant period, that is July and August of 1995, but let me just ask some more questions just for the sake of thoroughness. Did you see anybody carry records like this into or out of the book room during the relevant period?

A No.

Q Ever since then, since July 1995?

A No.

Q Did you see anybody carry records like this at any other place in the executive residence of the White House?

A No.

Q And I would also ask you -- I had also asked you a general question earlier regarding the expected and the normal behavior of your staff, specifically the members of the staff that have

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access to the linen room.
Let me ask that you specifically. Would you consider it still highly unlikely that any member of your staff would, without direction from another member of the White House staff, carry records like these and place them into the book room?
A Without direction, they would not.
Q And no member of your staff, I take it from your earlier answers, had told you that they did that at somebody else's instructions?
A That's correct.
Q That they carried something like this into --
A Nobody has told me, that's correct.
Q And let me ask that question with respect to the construction workers who, if they, presumably according to procedure, see something like this lying around in a part of the White House that they need access to, would not move it but would contact a member of your staff in order to request that it be moved; correct?
A That's correct.

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Q And you do not have any knowledge of any such request or of any such movement of records like these during --
A That's correct, by the contractors during that period, that's correct.
Q How about by a member of your staff?
A No.
Q During the relevant period of July and August 1995, since then?
A No.
Q Incidentally, do you know the name of the HVAC contractor?
A The general contractor?
Q Yes.
A It's on the forms that you showed me earlier. The specific name is -- it gets -- I forget the specific name of the contractor.
Q With respect to the guests in the White House, you testified earlier that you would get the White House staff -- or the First Lady's staff or President's staff would make the scheduling and arrangements for people to come and stay, and then

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they would give you a list of guests?
A Correct.
Q Do you make efforts to identify who these guests are?
A I'm not sure what you mean by "identify."
Q Like do you ask, if you get a name that you're unfamiliar with, do you ask who is this person to the White House --
A That is none of my business.
Q And you do not ask that?
A No.
Q It does not matter to you, with respect to your service of the guests, who they are?
A No.
Q It only matters that they are -- the President and First Lady have extended them an invitation to stay at the residence?
A That's exactly right.
Q So other than what you would know of a guest, either through public information or through other information that you have, you would not have any other information as to who they are or why they

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are staying at the residence?
A No.
MR. DINH: Off the record.
(Discussion off the record.)
BY MR. DINH:
Q I mentioned Ms. Susan Thomases earlier. Do you recall seeing Ms. Susan Thomases in the White House residence either in July or August of last year, 1995?
MR. KRAVITZ: Have we established that Mr. Walters knows who Ms. Thomases is?
BY MR. DINH:
Q Do you know who Ms. Susan Thomases is?
A I do.
Q Had you seen her in July and August of 1995?
A I don't have a specific recollection of her being there during that time. She could have been and I just may not have interacted with her. There are times when she comes and does not go above the first floor, so I may have talked to her during that period of time by virtue of the fact that she was

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there as a guest at a reception that did not require her to go above, and therefore she wouldn't show on the log, she would not be of any recollection.

If I went through the logs, I could certainly tell whether or not she was there, but I have no specific recollection of interacting with her during that specific period of time.

Q Right. We can go through the logs ourselves and I won't ask you to do that. Is she a frequent visitor to the White House?

MR. KRAVITZ: At what time period?

BY MR. DINH:

Q In the last year.

A Infrequent.

Q Infrequent, okay. Less infrequent -- less frequently than she was, let's say, in 1992?

A '92?

Q Yes. I mean 1993; I mean 1993.

A Yes.

Q And you stated that if she went into the White House residence, executive quarters, that is the second and third floor of the White House

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residence, her movements would be recorded in your log?

A Her movements would be recorded if she went above the first floor level. What she does on the second and third floor is, once again, in the privacy of the Family's area and we would not have any recording of anything like that.

Q Just simply entries and exits into that second and third floor area?

A Unless we had some cause to -- say, a meeting moved -- or a conversation moved from one area to another and we had to provide food and beverage in another area, it might show that they started off talking in the West Hall and went to the third floor.

MR. KRAVITZ: And just so the record is accurate, Ms. Thomases's movements to the second floor or third floor would appear on the logs unless one of those reasons you talked about previously occurred, which might result in her movement to the second or third floor not being in the logs?

THE WITNESS: That's correct.

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BY MR. DINH:
Q Just again to round out the record, what -- can you state for me specifically when would her movements not be recorded on the log -- when is an occasion when Ms. Thomases would enter the second or third floor without that entry being recorded?
A As an example -- and I don't know whether this specifically happened or not -- but an example would be if the duty usher was away from the desk doing business in some other part of the residence and Carolyn Huber, Capricia Marshall escorted her up past the police officer, then we wouldn't have knowledge of that so it wouldn't show up in the usher's log.
Q Right. Other than these isolated instances, which obviously can always happen because the duty officer has other tasks to attend to, other than these isolated incidences, are there other occasions when her entry would not be recorded? And by which I mean, if she was walking up with the First Lady, would that entry of both be recorded?
A Under normal procedure, yes, it would be

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recorded. And you asked earlier about another example or another way in which it wouldn't be recorded, and that's simple forgetfulness of the usher on duty, not putting it in the log, but the normal procedure would call for that individual to be logged.
MR. KRAVITZ: If one of the duty ushers just hypothetically did not know who Susan Thomases was and Susan Thomases walked up to the second floor, would that not appear in the log?
THE WITNESS: By herself? She would be challenged by the police officers and by the duty usher.
MR. KRAVITZ: Let's say if she went up with Mrs. Clinton but the duty officer didn't know who it was.
THE WITNESS: The duty usher?
MR. KRAVITZ: I'm sorry, the duty usher.
THE WITNESS: Probably would -- when he checked, when he found out that Mrs. Clinton was at the second floor, he would probably ask the police officer what time did Mrs. Clinton go to the second

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floor -- in which case there may be a conversation which would indicate, and she had somebody with her and identify that person.

BY MR. DINH:

Q And the Secret Service --

A If the person was known to the police officer, because there are times when the police officers do not know the names of the individuals.

Q And would they challenge that individual if he or she was with the First Lady?

A No.

Q So it's presumed that whoever is with the First Lady would have access?

A Yes. As a guest.

Q A rather safe assumption, I think.

MR. KRAVITZ: Off the record.

(Discussion off the record.)

BY MR. DINH:

Q Back on the record.

If we could at this time take a brief break, and I will ask you to do what I referred to earlier; that is, I am going to hand you records that

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you have previously identified as the daily construction logs. And let me represent to you that these logs were produced to us by the White House and they encompass the period from July 20, 1995 through August 14, 1995, the dates which I am interested in.

And I would ask you to go through these briefly and to the extent that you -- and we'll take a break for you to study them and make whatever notes that you need to make. And if you could, I would like you to focus on a couple of areas with respect to these construction logs.

One is the exact -- to the extent that you can identify through these records, the exact dates that the work on the closet in the First Lady's office was conducted, and whether they were in this period when it was started and when it was completed; to the extent that you can, the dates that the work on the -- the primary work in the exercise room was performed during this period with respect to the HVAC system.

A You say "primary work in the exercise room," there is ongoing -- there was not a period

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where there was specifically work done in the exercise room. That was an access point for work that was done under the promenade, the walkway outside.

Q Okay. So there's a lot of work still going on under the promenade?

A That's correct.

Q And this work, I take it, was continuing through July and August 1995 also?

A That's correct.

Q Let me just -- referring to this access point itself, let me just check to see if we're on the same page. Does the gaining of access to this point, did it require the moving of the TV and the videotape player in the exercise room?

A Yes.

Q We are on the same page. Do you remember approximately when the TV and VCR were moved? That would probably be at the beginning of the construction period.

A Moved out for work to proceed?

Q Right.

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A Moved back when the work was completed, moved out for the next day for work to proceed, because the President and First Lady and their guests would have been using the exercise area. So the only time we would have left, moved those pieces for any extended period of time under normal circumstances would be when they were not in the residence for an extended period of time. We would maintain access to that area for the First Family so that they could use that room by virtue of moving away when we needed access and moving back when we were completed for the day.

Q So the TV and VCR are on a cart?

A No, in a cabinet.

Q So you moved the actual cabinet itself in and out?

A That's correct. I must tell you, by virtue of your question, you're not going to find references in there to the office, to the book room, to the best of my knowledge. I think they are referred to by room numbers, which are off of blueprints, because that's the way the contractor operates.

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Q Do you know the room numbers for the book room or the office?
A I do.
Q You do, okay, great. Can you identify the room number for the office?
A 323.
Q The room number for the book room?
A 319A.
Q The room number for the exercise room?
A It is a series or was a series of three rooms, 322, 321 and 320. There was a wall torn down between 320 and 321 so that is now essentially one room.
MR. KRAVITZ: Which room -- that was the exercise room?
THE WITNESS: The exercise room is not a single room. It is really a complex of what was four rooms, a bathroom, room 322, room 321, room 320. The wall between 320 and 321 was removed, making it one larger room.
BY MR. DINH:
Q And you testified earlier that the work on

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the promenade that requires the access point in the exercise room was continuing through the period of July and August 1995?
A That's correct.
Q So would it be a safe assumption that construction workers would need to gain access to that on a daily basis or is the work --
A Not necessarily daily, but frequent during that period.
Q More intermittent but nevertheless normal?
A Frequent.
Q Two or three times a week?
A And sometimes more.
Q And on those occasions, you would be asked to move the TV and VCR out of the way so they could gain the point of access?
A The residence staff would be asked to. I can't remember the last time I was personally asked to do that.
Q A little bit below your pay grade?
A Not necessarily. If it needed to be done, it would be done.

Q But rather inefficient use of your managerial skills.

So given the futility of my earlier question with respect to the exercise room, why don't we hold that aside. And why don't we ask you to identify it with respect to the work done in the office. If you can identify the dates of -- starting and ending dates, to the extent that you can from these records, and when the closet was sealed and when the work began. And also with respect to the book room itself, you testified earlier that there may have been some ductwork done in the book room.

If you can identify that from these records, that would be very helpful.

A And some ceiling work.

Q And then the third aspect is the specific week worth of ceiling work in order to repair the damage done when, "the man fell down on Ms. Marshall." Great.

Thank you very much. And why don't we go off the record and take a quick break.

MR. KRAVITZ: Take as much time as you need.

THE WITNESS: It's not going to take -- 10 minutes will be more than enough.

(Recess.)

BY MR. DINH:

Q You've had time to review these construction logs?

A Yes.

Q Can you go ahead and describe what you've done?

A What I have done is I've written down the document numbers that were on the documents that I saw and the dates associated with that document number, and I've identified the various rooms so I don't know how you want to proceed from here.

Q Great. Now, you've got written down -- well, why don't we go ahead and mark your notes there, if we could, as Exhibit 2 and then I will provide you a copy so you can take with you, but I would like a copy also so that we can proceed.

(Deposition Exhibit 2 identified.)

BY MR. DINH:

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Q I've made three copies of Exhibit Number 2, and let me return the originals to you and ask that the court reporter make that an official part of the record after we're done, and here's a copy for your records and one for you, Neil, and one for me.

A By way of explanation, if I may, the dates across the top is the original date you gave me, July 20 through August 14. You asked me some time ago about the general contractor's name, and looking at the document, it's "JCM Controls, Incorporated," and just because it's relevant for me to know the approximate date the First Family went on vacation. And I don't have the specific date written in my personal calendar but I remember it was sometime around the 19th of August, '95. Whoops. Can't write on my documents.

Q Feel free to make whatever additional notations you wanted.

A I was just going to put '95 on here.

Q Oh, that's fine.

MR. KRAVITZ: That's helpful.

BY MR. DINH:

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Q And proceeding from the top of your notes, notations, you identify room 323. Can you remind us which room that is in the --

A Room 323 in the context of the conversation we've been having has been referred to as the office.

Q Great. And I asked you with respect to the office to identify the times, the dates in which construction was performed in that office in order to close down the closet basically in order to make it into a duct.

A We need to go through each one of these documents, because what I did was write down in going through the documents the dates that these areas were specifically identified, the document number and the date that referenced these activities. The first one is the 26th of July.

Q I'm sorry, the first one with respect to room 323?

A The first date that I have -- that I came across a document that refers to any of these areas that we're discussing.

Q Let me ask you to proceed from the top of

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your notes, from room 323 there we're talking now about the office. The first notation you have under that is S 020167, and let me -- next to that there's a date, 8-18. Let me show you that document and can you describe to me what that says to you.

A Under the "status of work" portion of this daily log of construction, on the left-hand side, one of the contractors is identified as H&P, for Harrison and Palmer. As you go across it says "spliced and terminated wires in buzzer panel" -- whoops. Wrong document. I have to go down further, I'm sorry.

In GCS, in that same "status of work," if you read across on that line, on GCS, it says "abated in 323 closet."

Q Okay. What does "abated" mean, do you know?

A This is a company that does asbestos removal, and in this case in that closet evidently they found, when they started to do some demolition or they knew beforehand, that there was some asbestos-containing material or insulation. Therefore, before they could cut into the space, they

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would have to do asbestos abatement.

Q So it is safe to assume that on the date referenced here, 8-18, the closet had already been cleared and work had commenced on that closet?

A By reading this, I cannot tell. It's a possibility the closet could have been emptied earlier that morning and they started this process in the afternoon. These documents aren't -- they are simply a summary of work and quite frequently aren't that specific.

Q Asbestos abatement of a closet would require the closet to be empty?

A Yes.

Q Thank you. Go ahead and continue.

A Also referenced in 323 it says "during removal of 323 decon, wallpaper above the door was torn." That's just a reference. There's nothing else here that gives any reference to that specific room.

Q Great. So in summary on 8-18 there was some asbestos abatement of the closet in question in the office of the First Lady?

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A Yes, by reading these records and my interpretation.
Q If we can move on now to your second notation with respect to room 323, you have notated S 020171, 8-20. Let me show you that document and ask you to give a brief description of the work done on room 323.
A Once again, under GCS, which was the asbestos abatement subcontractor, it says "took down 323 decon."
MR. KRAVITZ: What's decon?
THE WITNESS: Decontamination unit.
BY MR. DINH:
Q That's part of the abatement procedure?
A That's part of the abatement procedure.
Q They put in a decontamination unit that basically sort of cleans up the area?
A They install a decontamination chamber, if you will, so that while they're doing the actual removal, no asbestos is released into free air and that space is then cleaned, vacuumed by various apparatus until it's then tested for air cleanliness

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and free of abatement -- or free of asbestos material. And then after that air cleaning is done, then they can take down the decontamination chamber.
Q It would be safe to assume that no records or other documents were contained within the decontamination unit?
A Unless the contractor had to have blueprints, floor plans or something for their specific activity that they would have maintained for themselves.
Q And the next notation you have is S 020175, 8-22. I'll show that to you.
A I also think it's worth for my own sake at this point stating that I am just going over these documents written by somebody else and also during this period, I wasn't present to even know what the status of these reports were.
Q But your expertise, that is, your knowledge of interpretation?
A I'm just giving you information by what I know and being involved in this process.
Q And the person who would have primary

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knowledge would be Mr. Freemyer, who was the supervising person?

A Once again, he would have better knowledge than I do, but he may not have -- he wasn't there every moment.

Q Right.

A And the one that has the best knowledge certainly are those people who did the work and supervised them doing the work.

Q Thank you.

MR. KRAVITZ: When you say you weren't "present," you were on vacation?

THE WITNESS: That's correct.

MR. KRAVITZ: So you weren't present on the White House grounds at all during this time period, the time period for these documents that we're looking at?

THE WITNESS: I was on vacation from -- I didn't return to work until either the 23rd or the 24th of August.

MR. KRAVITZ: And I believe you testified earlier that you left on the 4th; right?

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THE WITNESS: That's correct. This is document 175, the last three, and on here is another reference to 323, under the name of Callas, and this is the subcontractor that was doing demolition work, and at this point it says "demo holes for duct, second floor. Salon, 319 and 323."

So at this point they were -- and it is my presumption that they were physically now, the asbestos work had occurred in the closet and now they were physically cutting through the floor space and the ceiling to allow -- to make additional space for ductwork and conduit.

BY MR. DINH:

Q Great. Actually, before we proceed with respect to room 323, your first notation with respect to any work in this room as reflected by these records was 8-18. That's August 18?

A Yes.

Q And you reviewed the records. Did you review -- the records here start on July 5, 1995. Did you review the records with respect to -- from July 5 through July 20 also or did you start at July

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A I started at July 5.
Q You started at July 5. And this was the first notation to the best of your ability to --
A It's the first time anything called my attention to room 323.
Q Great. And just following through the rest of your notations there, there is reflection of some work on 8-23, that is, on document number S 020177, and then some additional -- again, some additional work on the same date, 8-23, reflected on document number S 020191.
A I should check that document because it doesn't seem that we'd have two documents that far apart with that number on them. I may have put down an incorrect date.
(Witness reviewed the document.)
Yes, I did.
BY MR. DINH:
Q So that would be 8-30?
A It is. Should I change --
Q Why don't you go ahead and change it on the

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original.
MR. KRAVITZ: Which one is August 30?
MR. DINH: 191.
THE WITNESS: 191.
BY MR. DINH:
Q So basically, the import of -- these records are complete and correct, the import of this series of notation is that the work on room 323 began on the 18th of August?
A There may have been some preliminary work. The first reference I believe relates to asbestos abatement, and there may have been some preliminary work like taking out shelving, doing some minor demolition in there. I don't see any notation that calls that to my attention. And once again, since I wasn't there, I don't have any recollection.
MR. KRAVITZ: And presumably it could have occurred before July 5 as well, which would not be in these records?
MR. DINH: Presumably.
MR. KRAVITZ: You wouldn't know?
THE WITNESS: I wouldn't know.

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BY MR. DINH:
Q Presumably. Would it have been likely for there to have been such a lag in --
A We did not start demolition prior to July, I know, in that closet, because it was in run-up to getting started for the major work that was going to go on while the family was on vacation, so I know that we didn't start before July.
Q So because there was no specific notation of the magic numbers 323 on these various logs, those are the kind of notations that you said you called your specific attention to?
A Or any other thing on there that would call my attention to it.
Q Let's proceed now to room 319A. Room 319A, can you identify that room for us again?
A Room 319A is what we've been referring to --
MR. KRAVITZ: Wait a second. Did we finish all the entries for 323?
MR. DINH: Yeah. I mean, if you would like, you can go ahead and go through. I mean, they

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fall outside the period for which I'm interested in.
MR. KRAVITZ: Okay, fair enough, fair enough.
MR. DINH: So I didn't want to proceed and I want to make this as expeditious as possible. Thank you, though.
BY MR. DINH:
Q Let's proceed to room 319A. And that was what we've been commonly referring to as the book room?
A That's correct.
Q Can you go ahead and make the same process for me again. The first document that you identified was S 020123, and that is for 7-26 on that document.
A That's correct. And on -- once again, under the name "Callas" under the "status of work" it says "patched 319A ceiling and 319 wall," 319 being the adjacent room which we have called the table linen room.
Q And Callas is a subcontractor?
A Is a subcontractor.
Q The next notation is S 020135, August 2.

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I'll show that to you.
A Once again under "Callas," the last notation under "Callas" says "patched 319 ceiling."
Q So presumably the continuation of the work earlier?
A I flagged that as partially 319 because this is probably continuation of the other work and they just did not add in 319A, but that's a presumption on my part.
Q Now, you have bracketed on the right-hand side of the page a number of notations. Can you explain those notations?
A I believe I can -- I think very early in the testimony I said that I remembered someplace where ductwork went through I thought 319 or 319A, and those four references there specifically identify ductwork going through the wall in 319, not 319A.
Q That would be the table linen room?
A That's correct.
Q But in any event, in order to gain access to that area, one would have to walk through 319A?
A That's correct.

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Q Was this ductwork above the ceiling or in the walls, do you remember?
A It was in the wall space; it was not above the ceiling. It may have been at ceiling level but it was --
Q Great. Let us now proceed to room 321/0. Can you again identify that room for us?
A That is part of the -- what has been referred to as the exercise room. As I stated earlier, it's really a complex of rooms. The wall between 321 and 320 had been removed so that's why I have it 321/0.
Q And the first one you identify here is S 020123. That's on July 26. I'll hand that to you.
A Under "JCM," there's a reference to installing piping in 305 and in 321 promenade. This is the first indication that I saw in going through the documents that indicated a specific entrance into the 321 promenade. That caused the move, the moving of the, as you referred to earlier, stereo and TV unit out of the way which allowed people to get into that access or crawl space, as I refer to it.

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Q Now, this is the notation of 7-26, and our records extend back to July 5. Do you think it likely that any work had occurred prior to July 5 with respect to 321?
A Yes.
Q Because this was the access point for the promenade?
A That's correct, one of the access points. This is specifically for the southwest corner.
Q And was there work in the southwest corner of the promenade prior to July 5 that would have probably required access through 321?
A Yes.
Q But within the relevant period, that is, July 5 on, this is the first entrance into 321?
A That called to my attention.
Q The next one is the very next day, 7-27 and that would be S 020125. I'll hand that to you.
A Once again, under the general contractor's name, "JCM," the end of that says "installed piping in 321 promenade."
Q It's a continuation of the same work?

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A That's correct.
Q The next entry is July 28, S 020127. Let me again show that to you.
A Once again under "JCM," the middle entry says "installed piping in 321 promenade."
Q On August 3, the records reflected by S 020137, and I'd ask you to study that again.
A It's an entry under "JCM," middle entry says "installed mains in 321 promenade."
Q What are "mains"? Are they the main ducts?
A That reference does not give me enough information to tell you what they're referring to.
Q The next entry is August 16 and that's reflected in S 020163.
A I think in my own notes when I was writing this down, this is really a 319A reference, not a 321. I'm looking to see if there were multiple -- but this is really a 319A reference. Under "H&P" there, which is Harrison and Palmer, it says "pulled buzzer out of 319A."
Q Do you know to what that is referring?
A There is a buzzer system at the White House

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that dates back to the 1948 to '52 renovation, and as we go through, as we find units that are no longer serviceable, we withdraw them. My presumption is that this is what occurred. And this was on 163 and it's really a 319A reference.

MR. KRAVITZ: I think this says also "disconnected phone lines to 319A."

THE WITNESS: That's correct. Under the same contractor, "H&P," "disconnected phone lines in 319A."

MR. KRAVITZ: And pulled buzzer.

BY MR. DINH:

Q I take it the H&P subcontractor is the electrical subcontractor?

A It is an electrical subcontractor. And I do not see a reference in here to 321.

Q And the last line of that says "system down overnight." Do you know what system that is referring to?

A I do not.

Q It could be the telephone system or could be the buzzer system? Is the buzzer system still in

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service?

A Yes, yes. I do not specifically know what that refers to, the "system down overnight." It may be the buzzer system, then again it could be the fire alarm system for that specific area. I just don't have a specific reference from this note.

Q You don't have any sort of electronic monitoring system in that area, do you?

A No.

Q Just trying to be thorough.

A Other than the fire alarm system.

Q And the last notation on 321/0 is August 18, S 020167. I'll hand that to you.

A This one is also a 319A reference, I believe. It also has a reference to 323.

Q Yes, that was the first entry.

A This was the first entrance on 323 and I put it in the wrong column. It's two references to 319A.

Q Can you go ahead and explain to me what that reference is?

A Under "H&P" again, "splice and terminated

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wires in buzzer panel in 319A only." This refers to the previous one we talked about, about pulling the buzzer out. There's also a reference to "cleaned up 319A." I don't have any idea what that specific reference is.

Q Under the normal procedures, I take it H&P is not responsible for cleaning up the entire area of the book room?

A The contractors and subcontractors are responsible for cleaning up their specific -- the product of their work, if I can, and sometimes that means waste, but I can't give you what that specific reference is.

Q But it's safe to assume, given your earlier procedure regarding the handling of materials found in the White House when the contractor begins work or during the course of the contractor's work, it is safe to assume that "cleaned up 319A" does not mean that the contractor handled or cleaned up or swept any materials inherent or that was existing in the book room independent of his own work product?

A May have gotten some dust that was there

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previously but no, they would clean up what they caused.

Q So just again to spell it all out, when they come into a specific area, let's say they have to work on a particular wall, White House personnel, your staff, would move materials around that wall to give them access to that wall, and that particular area would be worked on by this specific contractor, then they would patch up the wall or sweep up the dust caused by their whatever, whatever activity they did within that limited space that you have cleared out for them?

A That's correct. And I'll be more cautious making notes in the future.

Q You have been very helpful and very careful and I thank you very much for that.

A I think it's one thing at this point, since we've reached a date that I wrote on here which is First Family vacation on 8-19-95, it's worth saying that at this point, the records from here forward in date and sequence become more generic because as the family left, we did a lot more work and areas would

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remain overnight in a condition that we wouldn't normally leave them.

Plus there would be an ongoing status of work because we increased the workload at that point instead of a regular eight-hour day, we may have been working 12 or 16 or 18 hours a day to proceed as quickly as possible with the process.

Q Just again to state on the record, we had talked earlier regarding the ductwork in 319, and we had talked about the work inherent in that, that you have bracketed to the right-hand side of your notes there. I do not think that we stated for the record that the notations there indicate that the work was performed starting 8-21 and ending in 8-30, that is, August 21, 1995 and ending -- well, our records reflect the last work done on 8-30 but obviously our records end at 8-30 so they could have continued beyond that date?

A That's correct.

Q You've made additional notations and corrections on your notes and we will make the photocopies accordingly and give you a copy of that

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at the end of the deposition. Let me ask you the following.

I am looking through the various logs that you've testified earlier reflect the logs kept by your office, that is the White House usher's office logs of entries into and exits from the White House executive residence area, that is the second and third floor of the White House residence. And on some of these they indicate -- or they suggest that certain persons entered the second or third floor for a specific meeting and then leaving together, the suggestion coming from the coming together and leaving together or from other sources that is, for example, there are some places where you say so-and-so entered for meeting with so-and-so and then, of course, exiting after the meeting is over.

Do your normal course of duties call for you to attend any of these meetings?

A No.

Q Do you usually -- do you have occasion to witness such meetings?

A I have meetings on the second floor with

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the President or the First Lady, or contractors if that is necessary, but that's upon request and it's an unusual set of circumstances.

Q But let's say that I have a meeting to go to with Mrs. Clinton on the second or third floor, or the third floor of the residence and I attend that meeting. Would you, as a normal course of business, have occasion to witness or attend such a meeting, unless you were specifically called for?

A Unless I was specifically requested, either myself or one of my staff may escort that individual to the location of the meeting, and then make sure they were comfortable and then depart. But they would not take part in a meeting unless they were specifically requested to.

Q Nor would they be present there during the meeting?

A There would be no reason for them to be.

Q And you yourself do not go in the normal rotation for a duty usher?

A Occasionally.

Q Occasionally to fill in for one of your

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assistants?

A That's right.

Q You mentioned at one point that the guests would be issued -- guests to the White House residence would be issued something like a temporary pass?

A Yes.

Q Do all persons who are in the residence, that is on the second and third floor of the White House residence, in the executive residence, do they have to wear a pass at all times?

A No. In fact the only people who get those passes are overnight guests.

Q And they would not be displaying it at all times?

A On the second and third floor, no.

Q They would just use it to gain access?

A Access to the second and third floor, not to the White House complex.

Q But they don't wear it in their pocket or anything while walking around the second and third floor?

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A No.
MR. KRAVITZ: They might.
THE WITNESS: If they choose to. I mean it's on a chain and if they just decide to wear it, they may decide to do that of their own accord but there's no requirement because there's nobody there to check them anyway.
BY MR. DINH:
Q There is no Secret Service to challenge them, like you said on the second and third floor?
A No. Once guests are in those private areas they are as guests of the Family and remain so.
Q And you certainly wouldn't challenge a guest to show his or her credentials?
A No, I wouldn't challenge them, unless it was -- well, I shouldn't say that. If there was somebody there that I was totally unfamiliar with, yes, I would if I ran across them. If it was under a set of circumstances where I wasn't expecting a houseguest and I saw somebody and I would expect any of my staff to do likewise.
Q Do you recall any such incident?

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A I do not.
Q In July and August 1995?
A I do not.
Q Do you have any knowledge of any of your staff encountering such an incident in July or August of 1995?
A No.
MR. DINH: I have nothing further. Thank you very much for your help and your expertise in the construction records. This was in particular very helpful because we didn't even know what the numbers designated. In that regard, thank you.
THE WITNESS: That reference is important to the contractors and to other people that would deal with those because they don't necessarily know the names of the rooms in generic terminology or how the names are used. They use floor plans as access.
BY MR. DINH:
Q That would be the common reference point for all these contractors?
A That's correct.
Q So if I were to depose a contractor, I

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should not refer to the book room as the book room but rather refer to it as room 319A?
A They may know it as a matter of course, but to be specific, they're going to know it by the floor plan number.
Q 319A?
A Yes.
MR. DINH: Great. Thank you very much. Appreciate it.

EXAMINATION

BY MR. KRAVITZ:

Q Mr. Walters, I have a few follow-up questions but hopefully it won't take more than about 10 or 15 more minutes. Why don't we work backwards from my notes so we can keep talking about the same subjects we've just been talking about.
You identified some documents from the contractor records which indicated that on July 26, 1995 in the book room, room 319A, the ceiling was patched and there was some work done on the wall between the book room and the table linen room.
Do you remember that?

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A Yes. It doesn't necessarily mean there was work done between the two rooms.
Q On the wall that divides --
A Yes, the common wall.
Q Is it your understanding from the fact that it's listed as room 319A that whatever work was done on that wall was done on the side of the wall that is inside the book room as opposed to the side of the wall that's inside the table linen room?
A I don't have specific knowledge.
Q You wouldn't know?
A No. I didn't -- wasn't hands-on, day-to-day with the operational end of this project.
Q Can you tell from -- let me back up.
You also identified another document, S 020135, which indicated that the ceiling in what you've called the table linen room was patched on August 2, 1985. Do you remember that?
A 135?
Q Right.
A It says the ceiling in 319.
Q And that's the table linen room?

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A It is.
Q And specifically the document indicates that the ceiling was patched in the table linen room?
A It does.
Q To your knowledge, was the patching that was done in the book room on July 26, 1995 related to the same problem that the patching that was done in the table linen room on August 2, 1995 related to?
A I can't specifically say that. The amount of activity that's occurred in the ceiling above all the rooms on the third floor due to this project has necessitated patches almost routinely over the last two years.
Q Are you familiar with this incident that Mr. Dinh has referred to a couple of times when someone appeared almost to fall through the ceiling in the book room?
A Only in a cursory way that I heard Ms. Marshall refer to the fact that there was an occasion when she thought somebody was coming through the roof on top of her, and I don't specifically myself relate it to that date.

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Q When you say "that date," that's July 26 '95?
A Yes.
Q Do you know, do you have any idea when it was that this incident occurred, when Ms. Marshall felt as if someone was actually falling through the ceiling in the book room?
A My only recollection is that it happened sometime in the spring or summer.
Q Of 1995?
A Yes.
Q Did you see the book room ceiling, what it looked like, after that incident occurred when the person almost fell through or broke through?
A I did not.
Q Do you know how long it was after the person almost fell through the ceiling or broke through the ceiling before the ceiling was repaired in the book room?
A I do not.
Q Was there a mess in the book room? I mean, I guess common sense would lead one to think there

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was a mess if someone almost fell through the ceiling into the book room and there would be plaster all over the place. Do you know anything about that?

A I think Mrs. Marshal's recollection was more from fear, and it seemed like it was much larger event than it was. But in listening to the casual conversation that she had about that incident, and then having some knowledge of the fact of what repairs were done on the third floor, I don't remember any incident that was that large of an event where somebody's foot came through or their backside came through the ceiling.

Q What were people actually doing in the ceiling, were they putting in ducts and wires?

A All of this project is taking all of the existing ductwork out of the attic space, putting new air handling units in on the third floor and putting new ductwork and the associated conduit, electrical controls and so forth, that go with that.

Q And the attic is directly above the third floor?

A The third floor ceiling and then you're in

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the attic space.

Q Do you recall any point in time when any of the tables or other furniture in the book room were covered with anything to protect them from things that might have been falling from the ceiling?

A That would be our routine process, is that we would go in and anything we couldn't remove from the area, we would put plastic or tarp over it to protect it from falling debris. I don't specifically remember if things were covered in there for that specific event but that wouldn't be an unusual occurrence. That's what we would expect to be done, that things would be covered.

Q Let me give you a hypothetical question. Let's assume that you received a call one day and you were told there's been -- there's a hole in the ceiling in the book room, someone's foot fell through it, please come look. And you go look and there's some debris on a table in the book room, and it's covering up some of the item on the table.

What would you do at that point?

A My first reaction would be to respond and

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see how great the damage was to see what I needed, first of all, to clean it up; and second of all, if it did any damage to anything in the room and then assess what needed to be done to start the repair process.

I don't remember at any point having -- you referred to it like a foot coming through the ceiling or something -- an incident that was that large. We're talking about cracking plaster where possibly a thin sheet of plaster, but could be relatively large -- I mean, the largest piece I can remember is probably one square foot of thin plaster coming loose, not that you could then see up through into the attic space. I hope that's helpful.

Q No, it is. But what would you do -- for example, let's assume that this plaster fell from the ceiling onto the table. What would you do with the table? Would you cover it up, would you take the stuff that was covered with plaster off and clean it, or would you wait for further instructions before moving anything, still in that circumstance?

A It would depend on the degree of debris.

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We probably would move things to the side and have the housekeeping staff clean up the dust and dirt particles.

Q So would that be an exception to the general rule that your staff would never move something without an instruction from the First Family?

A Certainly, although they would try and replace it to where it -- if there were figurines or knickknacks or something, we would try and replace them in the same place where they were before.

Q So that rule that you talked about earlier, by which your staff would never move anything absent an instruction from a member of the First Family or someone else with authority, is a general rule but not an absolute rule?

A No. In the case of an emergency, we would take the necessary action.

Q And you say that your general practice or your staff's general practice in the case of debris falling from the ceiling would be to cover up things underneath the affected area in the ceiling unless

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they could be removed?
A Previous to doing any work or knowing of any possibility of things, we would cover things up.
Q And your testimony is back in July/August 1995, you just have no recollection one way or the other as to whether the table or any of the tables in the book room was covered with any kind of tarp to protect it from more falling debris from the ceiling?
A I don't have any specific recollection of that.
Q Can you tell from the records, the construction records, whether the ceiling work that was done in the book room on July 26, 1995 was completed that day?
A Not from these records, no, I cannot. If I could add one other thing, I can't even tell from these records whether in fact the final finish, the final repainting may have been done by our staff. These records are just not detailed enough to do that.
Q So it's possible, for example, that the contractors would have been in there on July 26, 1995

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and patched the ceiling and the wall in the book room and that someone from -- or a team of people from your staff might have then done painting at some later time, and that painting would not be reflected in these contractor records?
A That's correct.
Q Now, if that was the case -- strike that.
If the contractor had done painting, that would have been reflected in these records?
A Not necessarily. They're not specific enough. These are just general comments. In fact, there is one company that does most of the finish work called Finishes; interesting name.
Q Sometimes things actually make sense.
A And I do not see them listed proximate to the 26th date, which would tend to lead me to believe that we probably used our own in-house staff to do the final painting.
Q If the contractor had patched the ceiling and the wall on the 26th, and let's say your people -- I mean, this is just hypothetically, I recognize -- did touch-up painting say two days

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later, what would likely have been the state of the room during that two-day period in the middle? Would there have been some kind of tarp over the table, or do you have any idea?

A Under normal practices, it would not stay covered because, once again, you'd be in the private area of the First Family and we'd want to restore that area to their usage. So if we did have a tarp over anything, we would take it up and remove it.

Now, if the Family -- and I don't have the specific logs to show whether they were out of town. If they were out of town, we may have made the decision, since they weren't going to be using that area, to leave it covered. But I don't have any way of knowing from the records that I have in front of me.

Q I don't think we have that information either.

A In most cases, though, we would try and restore the area so the Family could use it, since it is in the private area.

Q I suppose that would be the case unless

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there was some fear that the ceiling, something more was going to fall from the ceiling that you didn't want to fall on things?

A If we were repairing it, it better stay up there. Finishes would have to finish somewhere else.

Q Now, would you have records anywhere -- "you" being the usher's office -- as to whether, and if so when, any of your staff did the finishing on the ceiling and the wall in the book room?

A The usher's office, we would not have any. There would have to be something that would have caused somebody to write it down. Under the normal course of events, we would not write it down. That's what our two painters are there for and they would have no cause to write it down, unless we were remodeling the room and changing the paint color, in which case they would want to make sure that they had the right paint for future use. But that was not the case in here at this time.

Q When Viet was asking you questions about the state dinner for the South Korean president which occurred on July 27, 1995, you mentioned that there

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were numerous other events in the July/August 1995 time period that didn't rise to the level of state dinners but which nevertheless might have caused increased activities in the table linen room. Can you -- I see you've opened up your -- is that a personal calendar?

A It is.

Q It's a personal calendar?

A Yes.

Q By referring to your personal calendar, can you identify for us the events and the dates on which they occurred?

A What time frame?

Q Well, actually, why don't we stick to the July 20 to August 14 time frame.

A You missed the press picnic on the 18th of July.

Q Let's go back to the 18th. That's a biggie, no doubt.

(Laughter.)

Why don't we start with the press picnic.

A The 18th of July, it was a press picnic on

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the south grounds for approximately 1500 people.

Q Is that something -- do you have any recollection as to whether the table linen room --

A Whether that specifically would have caused additional -- I don't know, but at different times in that room the housekeeper has kept cloths that we use outside as overlays and they may have been in there. I just don't have a specific recollection.

On July 20, we had a reception that evening for 350 people. We may have used table cloths as overlays. I just don't make notations in here nor do I normally make any notation or the usher's office of what cloths we used for these various events or where we retrieved them from.

We had a mayor's event on July 26, which was only a few people for cocktails so we wouldn't have had a use -- that wouldn't have increased the uses of that room. Those were the major events that I've just related. I take that back.

There was one on July 28, an event on the south grounds that could have included as many as -- I don't have a final count -- could have had as many

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as 1500 people that would have been similar to the press picnic as far as usage of table cloths.
Q What event was that?
A I believe it was -- I have down here a watermelon event. I believe there were watermelons brought from Hope, Arkansas.
Q Anything in the first two weeks of August?
A I don't know.
Q You weren't here. So just so the record is clear, you've been working off your own personal calendar and your personal calendar does not indicate the type of White House event for time periods when you were on vacation; is that correct?
A That's correct.
Q So the fact that your personal calendar has none of this type of events in it for the period that you were on vacation in August does not mean that none of those events occurred during that time; is that correct?
A Unless an event was put on the calendar after I left, I probably would have some notification in my calendar, the fact that something was

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scheduled, because I would have attended some kind of planning meeting, like I said, unless it occurred after I left and I wasn't made aware of it. While I was gone, my assistants would have taken care of that.
Q Does your personal calendar have any event like the ones we've been talking about for the first two weeks of August?
A It does not.
Q Did the use of the book room or the types of activities that the book room was used for change, to your knowledge, at any time in 1995?
A I don't know how to respond. It has been used as a book room, it's been used as a storage room. It also was used as -- there was a computer in there at one point, so there were some additional people that were working in that space during '95.
Q Was that related to Mrs. Clinton's book?
A Yes.
Q When was it that the computer was brought into the book room?
A I don't have a specific indication of what

date that occurred.
Q Do you have a general sense?
A At one point I believe a personal computer of the First Family was in there, but my memory on that is very weak. I just don't have a recollection.
Q Now, who were the people who were -- you mentioned that, at some point, when the computer was in there, additional people were working in the book room. Who were those people?
A There were -- I'd have to look, I'm not sure that I want to make -- the logs would show who those people were, and because we didn't interact with them that frequently, there was some people from Mrs. Clinton's staff; certainly Maggie Williams, I believe Elizabeth Boyer.
I'd have to really look at the logs to give you the names. There were a number of different consultants to Mrs. Clinton on the book that were there from time to time. I hesitate to give you their names because I don't want to misspeak.
And a lot of the people that were there, I don't know what their function was. They were there

in conjunction with the book but I don't know what their responsibilities were.
Q And your testimony is that you can't remember whether these people were in the book room working on the book before, during or after the July/August 1995 period that we've been talking about?
A It was -- I know it was certainly after the Family returned from vacation, and there was some work that was done prior to the vacation because I know Mrs. Clinton worked very hard during the vacation on the book, so I know -- but I don't know the specific time frame. I mean the logs would certainly show.
Q So in other words, these people, whoever they were and whatever specifically they were doing, they were working, doing something related to Mrs. Clinton's book in the book room for some period of time before the Clintons went on their vacation?
A Yes.
Q And then for some period of time after the Clintons returned from their vacation?

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A Yes.
Q Did any of these people who were working on Mrs. Clinton's book work in the book room while the Clintons were on vacation, if you know?
A Not to my recollection, but once again, the logs would show specifically, and I could certainly tell you from the logs. I just don't have a specific recollection.
My sense is that I would tend to doubt it because we were doing a tremendous amount of work while they were gone on vacation. That was the whole idea of this runup to that time was to try and do as much work while they were gone, and we pretty much asked that there not be any activity in the second and third floor area, to include house guests or family members that might come in so that we could continue. We had air systems turned off, there was no air conditioning, there was no air flow in those areas.
Q So in other words, even though the construction records don't indicate that work was being done specifically in the book room, say for

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certain weeks in August, that does not mean that it would have been a pleasant place for people to be hanging out because there might not have been any air conditioning, for example?
A And we were doing work in there specifically, and that's why I pointed out, that I felt it was worthwhile pointing out that the Family went on vacation around the 19th of August. And at that point the logs from the contractors office or representative of the National Park Service start to show more generic terms, work done on the second and third floor, because at that point we were having increased hours of workage.
Q Going to the time period of July and August, 1995 again, can you give us a sense, just kind of as a general matter, how messy or how neat the book room was?
A It was a transition room. It was quite messy at times, and cleaned up at times. It would depend on the amount of incoming material and how quickly it went out. There were times when it was very messy.

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Q Viet asked you previously whether you had ever noticed in the book room anything that appeared like these billing records that he showed you, and your testimony was no.
A That's correct.
Q My sense from your testimony is that because of your commitment to respecting the privacy of the First Family, you don't -- when you go into a room like the book room, you don't really look around to see what's on the table, because it's not your stuff, it's the First Family's stuff; is that accurate?
A That's pretty accurate. I would look to see if there's dust before I would look to see if there were papers.
Q And so would you agree that the fact that you never noticed that billing records were sitting on the table in the book room doesn't mean that the billing records weren't sitting there?
A I wouldn't have a reason to look. I mean, it would be some cause for me to see them. I'd be more interested in whether the trash had been picked

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up, whether the room was generally clean, than I would whatever knickknacks or papers or whatever were on the desk.
Q I guess the point is the fact that you didn't notice that the billing records were there doesn't really mean very much because you wouldn't have been looking for them?
A Unfortunately, yes, that's exactly right.
Q You've testified about this ductwork that was going on in what used to be a closet in Mrs. Clinton's third floor office. And I believe you testified that before anyone went in there and got the asbestos out of there and then actually put the ducts in, someone would have removed whatever was in the closet from the closet?
A Correct.
Q Do you know who removed the items from that closet before all this work was done?
A I do not.
Q Is that the kind of movement of materials that would be done by the usher's office?
A If we were asked to do it, if somebody

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requested that we come and assist in moving things out of that closet, if there were things in the closet. As I said, I don't have any knowledge that there were things in the closet, but that would be something that would be done as a matter of course, and any one of us could have taken that phone call and asked for that assistance.

Q There wouldn't be any record of that?

A No.

Q Let me just -- I hope I don't muck up the record, but let me -- in the interest of trying to just summarize what you said about the usher's logs of movement up to the second and third floor of the residence, and then people coming down from the second and third floor of the residence, what I understood you to say was that there are no set procedures for how the logs are to be kept; is that correct?

A That's correct.

Q And in other words, the way the logs are kept varies from usher to usher, whoever is keeping the logs at one time?

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A Well, it's my responsibility, if you will, to try and keep some continuity so that if the Family wants to use them in the future for their personal records, they can go back and have -- so that there's not a huge divergence of the way the information is entered.

So if they're looking for something, they can find it without having to know the idiosyncrasies of the various assistant ushers. And it is something, as you've seen, that they're pretty straightforward. So we try and maintain them in some sense of order.

This is something that started actually when -- many, many years ago, it was a handwritten document in history and has just continued as a personal record for the Family.

Q But these are not formal records with some official government purpose?

A No, sir.

Q They're kept really as a remembrance for the First Family after they leave office?

A That's absolutely correct, and that's why I

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say I'm uncomfortable talking about them.
Q And I believe you've testified that although the records are not intentionally incomplete, you recognize that they are incomplete in that some people go up to the second or third floor or come down from the second or third floor without being listed in the logs?
A That has occurred, yes.
MR. KRAVITZ: I think that's all I have. Thanks.

EXAMINATION

BY MR. DINH:
Q I have a couple of more questions to either clarify what Neil has asked you or some others that occurred to me while he was asking you some questions, so if you can bear with me, I'd thank you very much.
Actually one thing before I forget, we talked at the beginning, when you looked at these records, about the designation OTR and you testified then it was off the record?
A Yes.

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Q Who requests you to make that designation?
A Sometimes it will come from the President's office. We may get that information from Capricia Marshall. Right now I can't think of anybody else who would ask that that be done. Sometimes we do it on our own.
Q For what reasons would you do it on your own?
A Because we know it's something that's not on the public release, if you will, of the President's press schedule or public schedule, however you want to refer to it, and it may have something to do with the Family's privacy.
Q So do you get a copy of the official schedule every day?
A Most days, yes.
Q And if you match that up, you can pretty much see what is included on there and what's not?
A That's correct.
Q Let's say I were invited to a meeting with the First Lady and as I walked through, walked past your duty desk, can I just call it out and say by the

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way, Dennis, Mr. Freemyer, who happens to be the duty usher at the time, say this is off the record, will he make that notation?

A Depends on who you are at that time.

Q If I were Susan Thomases?

A No.

Q If I were David Kendall?

A No. They have no official status.

Q Secretary of state?

A If he requested it?

Q Yes.

A We probably would get that -- it would be highly unusual. We'd get that notification from the President's office, I'm sure.

Q But let's say for whatever reason, let's say Ms. Williams walks by and says I have a meeting with the First Lady, this is off the record, that you would note?

A Maggie Williams?

Q Yes.

A Probably would note it as off the record if she requested it as chief of staff to the First Lady.

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Q Or she can tell Capricia Marshall --

A Would you please see that the meeting this afternoon is logged as off the record. I think an example possibly to clarify was a number of years ago, going back a number of administrations, when there was a change to be made in the Federal Reserve chairman. The President wanted to meet with the Federal Reserve chairman without having it be public knowledge and we were requested that it be off the record because he didn't want information out as to who the President might be considering as a Federal Reserve chairman.

Q That makes perfect sense. Supreme Court justices?

A Exactly right, but that's a couple of administrations ago, as an example.

Q We talked a little bit about the incident that happened in the attic space, that I guess to a certain extent drop into 319, the book room.

A 319A.

Q Correct. Where is the entrance to the attic space?

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A Well, there are two entrances. One was created for this project where we actually put a hole in the roof to have the contractors exit and enter without having to go through the family space, and a second one that, if I can, I would like not to have it for security purposes.

Q That's fine. It's not relevant to --

A It's not in the area that we're discussing and it is -- you enter through a closet and up through an access panel.

Q That's perfectly fine. I was just wondering whether there was an entrance within the space that we were talking about, that is 319, 319A, 321, 320 or 323?

A No.

Q What kind of ceiling is this? This is not --

A Plaster. There are -- in the area we're talking about it's plaster ceilings.

Q You testified earlier with respect to the work that is being done to prepare or to repair this ceiling in particular, the two dates were July 26 and

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August 2 that we had identified from the records. Mr. Kravitz asked you some questions regarding the preparations and cleaning associated with that and specifically with the moving of furniture or the placing of tarpaulins in order to minimize the dust or damage to the existing materials in the room.

You testified that to the extent that you have to move anything you move it back as soon as the work is finished, especially when the President or First Family is present because they use that space?

A Correct.

Q And that's exactly why you move the TV and VCR back and forth all the time instead of just leaving it to one side and then leaving the crawl space open?

A Correct.

Q And you said that this may change if the President or First Lady are not in the residence, therefore there would be no need to restore it?

A Right.

Q I'm going to refer you to S 020007 and S 020008, which are the usher's log for Wednesday, July

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26 and 27 and ask you to study that briefly and tell me whether the notations there include entries and exits -- and activities by the President and First Lady.

(Witness reviewed the document.)

A Yes, they do.

Q So it is safe to assume that judging from that, they were present in the residence at the time, during these days, they were in use?

A It does indicate that Mrs. Clinton departed for Denver, Colorado and that she didn't return until late that night, so she was out for a considerable amount of time, but we would have restored the area probably.

MR. KRAVITZ: What day was that?

THE WITNESS: The 26th of July. And since the President was there that day, we would have restored it certainly.

BY MR. DINH:

Q And the same thing with respect to the 27th. That's S 20007, and 200010, which is a continuation of the 27th.

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A Oh, yes, state dinner day. Obviously there.

Q That was the July 27, date of the South Korean state dinner which you testified to earlier.

A Right.

Q I'd ask you the same with respect to the second day in question in which there were repairs, that is August 2. That is record number S 020017. Can you tell me if the President and First Lady were in the residence at that time?

A Yes, they were.

Q Specifically there was a dinner for Mrs. Clinton that night was there not, with a B. Feinman?

A Yes. That's why it took me a moment, I didn't see a reference to Mrs. Clinton during the earlier part of the day.

Q Likewise, that's why the dinner stuck out in my mind because I had made the same -- but the President is certainly present during the entire day?

A Yes.

Q Now, Mr. Kravitz asked you some questions

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regarding the scheduling of events for the first two weeks of August when you were out on vacation. And your personal calendar indicated that there were no such events, at least you knew of, before you left, there may have been some added. The week before, of course, there was some activity, two or three events that week. When there is an event such as this, you took personal charge in order to plan and execute the event?

A Execute. Plan is done by the social office and the First Lady.

Q That is execute, like serve the dinner and making sure everything runs shipshape?

A That's correct.

Q And you personally do that?

A Yes.

Q And so it's not unreasonable to assume that when you're out of town or on vacation the First Lady -- or the social office would not schedule events because you are not there to take personal charge?

A No, that's not correct.

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Q You do have very good lieutenants who take care of things?

A The President's schedule supersedes mine. Without making light of this, no, the schedule is not determined by my presence or absence. My schedule, especially for vacation, is usually timed so that I can be back while they're gone to ensure that the residence is back in good shape when they return.

Q I understand that, but to the extent that the President and First Lady's schedule could be accommodated with your vacation schedule, is that fact taken into account? That is, if I were in the social office and I were planning an event the time of which is discretionary, do people ask you what is your vacation schedule?

A No. I plan my schedule around the activities.

Q And how far in advance do you notify the President and First Lady with respect to your plans for vacation?

A It can vary, depending on what the activity level is. Normally a month or so.

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Q So they know well in advance that you are going on vacation?
A Yes.
MR. DINH: Off the record.
(Discussion off the record.)
BY MR. DINH:
Q Back on the record.
At the end of your conversation with Mr. Kravitz earlier, you mentioned that you would go around to look for dust and to see whether trash is cleaned and the like. Is that part of your supervisory role in overseeing the maintenance and care of the White House?
A It is.
Q How often do you do this inspection, is that on a daily basis?
A Of various areas, not the entire building every day, but of various areas at different times.
Q Let's say, how many times a week would you expect an area like the book room and exercise room?
A Possibly once a week.
Q And the higher use areas obviously you

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would inspect more often?
A That's correct.
Q I just have several more questions relating to specifically trying to identify the people who have access or who use the book room during this period. If you will bear with me.
Earlier you testified that there were approximately 25 to 28 members of your staff who have reason to use the table linen room.
A Routinely.
Q Routinely. Some may come in unexpectedly or something like that, but as a routine matter, those would be the 25 or 28 people. And I would ask you now to study documents labeled S 020062 through S 020071 and this has been produced to us by the White House and is a staff listing of executive residence of the White House. It has been redacted to remove the addresses and phone numbers of the various employees. I take it this is a listing of all the persons under your supervision and department. And I would ask you to go through this and just roughly identify the people to whom you were referring

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earlier.
A By name or by responsibility?
Q No, no, by name is fine. And if it includes the entire department obviously you can just say the entire housecleaning staff without naming their names. But to the extent that the ones that are persons within the department who have that routine need to go into a table linen room, you can name them out by name.
MR. KRAVITZ: And the question is which people have regular access to the --
BY MR. DINH:
Q Identify the 25 to 28 persons who routinely have use of the table linen room.
A The butlers that are listed here, seven names.
Q You don't have to count them, I'm sorry.
A The florists.
Q All four of the florists?
A Yes. And the housekeeping staff.
Q The entire housekeeping staff obviously?
A May have reason to go into that area.

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Q Because they have various responsibilities, some of which may include table linens at various times?
A That's correct.
Q And those are the people?
A Those are the principal people who would have reason to go in that room on a more routine basis than the others. As I said before, the engineers may have to go in there to check room temperatures or to clean grate work, grates, air handling grates.
Q Grates being g-r-a-t-e?
A G-r-a-t-e-s, yes. Electricians to make sure the light bulbs are changed and there's no burnt-out light bulbs.
Q And Mr. Kravitz asked you a line of questions relating to the persons helping Mrs. Clinton with her book. And some of that activity you testified occurred prior to the First Family leaving for vacation on August 19, 1995. Now, specifically can you can recall for me the period prior to them leaving for vacation, prior to the

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First Family leaving for vacation, did the persons associated with the book use the book room for purposes of helping Mrs. Clinton with her book?

A I would have to say yes.

Q And, of course, after they returned from vacation, they used the book room in order, for the same purpose?

A Yes.

Q There was a computer there for that purpose, or did they use the computer for that purpose?

A There was a computer there. Once again, because of the virtue of the fact that that's in a private area, we didn't really have knowledge of what was going on in that space. Because these were guests of the family and didn't have reason to interact with them in that space, so I hesitate to say out of my personal knowledge I know what they were doing in that space and who was in there at what time.

Q You did not identify the persons by name without the logs. Is Barbara Feinman one of the

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persons?

A Yes.

Q Is Becky Saletan one of the persons?

A That's a name I'm familiar with, yes.

Q Let me ask you now again to look at the residence logs -- were there other people that you can think of who were helping her out with the book, or were those the two principal persons?

A There were other people. I can't recall their -- without looking, I can't recall their names or the specific dates that they would have been there, but there were additional people. As I mentioned, there were additional staff at one point or another who were there. Now, whether they were helping on the book or whether they were working on something else, once again I'm not privy to that.

Q I'm mainly interested in the nonstaff persons working with her on the book. Let me show you records of three days in which I have noted that Mrs. Feinman is recorded on your usher's record as being in the White House residence and ask you to study them and see if there were other people, like

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you said, who had helped her -- who had accompanied Ms. Feinman or otherwise helped Mrs. Clinton on the book. The first one will be S 020017.

A These are nonstaff people you're talking about?

Q Exactly. August 2 I'm concerned with.

A We've already said Ms. Feinman.

Q Right. Can you read the entry there relating to Ms. Feinman?

A The first entry I have is at 10:30 that I'm reading. It says Barbara Feinman to the second floor.

Q That records her coming into the residence?

A That's right. Do you want me to read each one of these?

Q Actually, there's a notation that she had lunch with the First Lady?

A Yes.

Q And does it show when she left?

MR. KRAVITZ: Did you say that there's a notation that she had lunch with the First Lady?

MR. DINH: Is there not? I'm sorry.

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THE WITNESS: It just says lunch, not with the First Lady.

BY MR. DINH:

Q I'm sorry. I'm mistaken. Does the record show when she left?

MR. KRAVITZ: It has her as a houseguest.

BY MR. DINH:

Q Right. That leads to my next question.

A She probably would not have left unless she went down and came back, then it would be logged. So she was a houseguest overnight.

Q She remained there as a houseguest overnight?

A Uh-huh.

Q Great. Getting back to the original question, were there other people there that you can identify who were outside persons, nonstaffers who helped Mrs. Clinton with the book?

A I don't see anybody on here that I'm familiar with who would have helped with the book, but once again, I don't have personal knowledge of who helped with the book and who didn't.

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MR. KRAVITZ: And your answer is only specifically with regard to August 2, 1995?
THE WITNESS: That's correct.
BY MR. DINH:
Q Let me show you now the next entry for Ms. Feinman, that is on record numbered S 020019, Friday, August 4 and ask you basically to go through the same exercise again. Can you note what time Ms. Feinman arrived?
A It says 9:00 a.m., Barbara Feinman to the third floor.
Q Are there other entries for Ms. Feinman?
A 12:45 lunch for Ms. Feinman. Dinner, Barbara Feinman in the solarium. This is very uncomfortable.
Q I know. I'm sorry. And she, of course, remained as a houseguest that night. Does that indicate that on the record?
A It does.
Q The solarium is on the third floor?
MR. KRAVITZ: Viet, I guess I don't see the need to have Mr. Walters reading information off the

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documents that are going to become part of the transcript, unless there's some additional need for that information. I mean, as you and I talked, this stuff is in our documents.
MR. DINH: Right. Well, just for the record, my reason for doing so simply is to -- is because you raised the possibility that these people had access to the third floor book room, which is obviously very relevant to our investigation, so I just want to pinpoint exactly when and where they were having access.
BY MR. DINH:
Q The solarium --
MR. KRAVITZ: Well, Viet, I mean, Mr. Walters has already testified, and I hope I'm not misunderstanding this, but once someone like Ms. Feinman goes up to the second floor, she can go anywhere she wants on the second floor or third floor without the logs indicating that.
MR. DINH: Fine.
MR. KRAVITZ: Is that correct?
THE WITNESS: That's correct.

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MR. KRAVITZ: I'm not sure that this really advances the ball one way or the other in any direction.

BY MR. DINH:

Q So the solarium is on the third floor?

A It is.

Q Let me ask you now to look at the entry for August 8, Tuesday. You know, I appreciate your discomfort and your professionalism. Can you just -- in light of that, let me just ask you to verify that Ms. Feinman indeed was in the White House at that time.

A Yes.

Q And was she a houseguest?

A Yes.

Q Thank you. Again, let me refer you back to the same document and I will now identify it as S 020023 and ask you to verify that Ms. Saletan was in the White House at the time.

A I see here she was a houseguest. I'm just looking to see. Yes.

Q Thank you very much. Do you know Helen

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Dickey?

A Yes.

Q Do you know if she was employed at the White House, in 1995?

A I do not know that. She was previously employed at the White House. I do not know when she left.

Q What was her capacity at the White House when she was employed there, do you remember?

A She worked in the social office of the White House.

MR. DINH: I have nothing further. I just want to thank you for coming here and giving us your testimony. It has been very helpful and I appreciate your concern for the First Lady and First Family's privacy and confidentiality and I must commend you on your professionalism.

MR. KRAVITZ: I actually have one more question.

EXAMINATION

MR. KRAVITZ:

Q I understand that you don't know when it

was that the computer was moved into the book room and when it was exactly that these other people started working on Mrs. Clinton's book in that room, but whenever that time was, was furniture moved around in the book room?

A As I said before, there's a constant movement of furniture in that room according to what activity is going on in there.

Q And moving a computer in was one of those activities that resulted in movement of furniture?

A Whether it occurred during that period of July and August of '95, I just don't have --

Q Whenever it happened?

A Whenever it happened would have occurred that something would have had to have been moved, yes, to put it in there.

Q Was a special table brought in to put the computer on?

A There was a computer table at one time. Whether it was concurrent with that computer coming in or not, I just don't remember.

MR. KRAVITZ: Thanks. Off the record.

(Whereupon, at 5:35 p.m., the deposition was concluded.)

GARY J. WALTERS

CERTIFICATE OF NOTARY PUBLIC & REPORTER 193

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Carmen Bunch

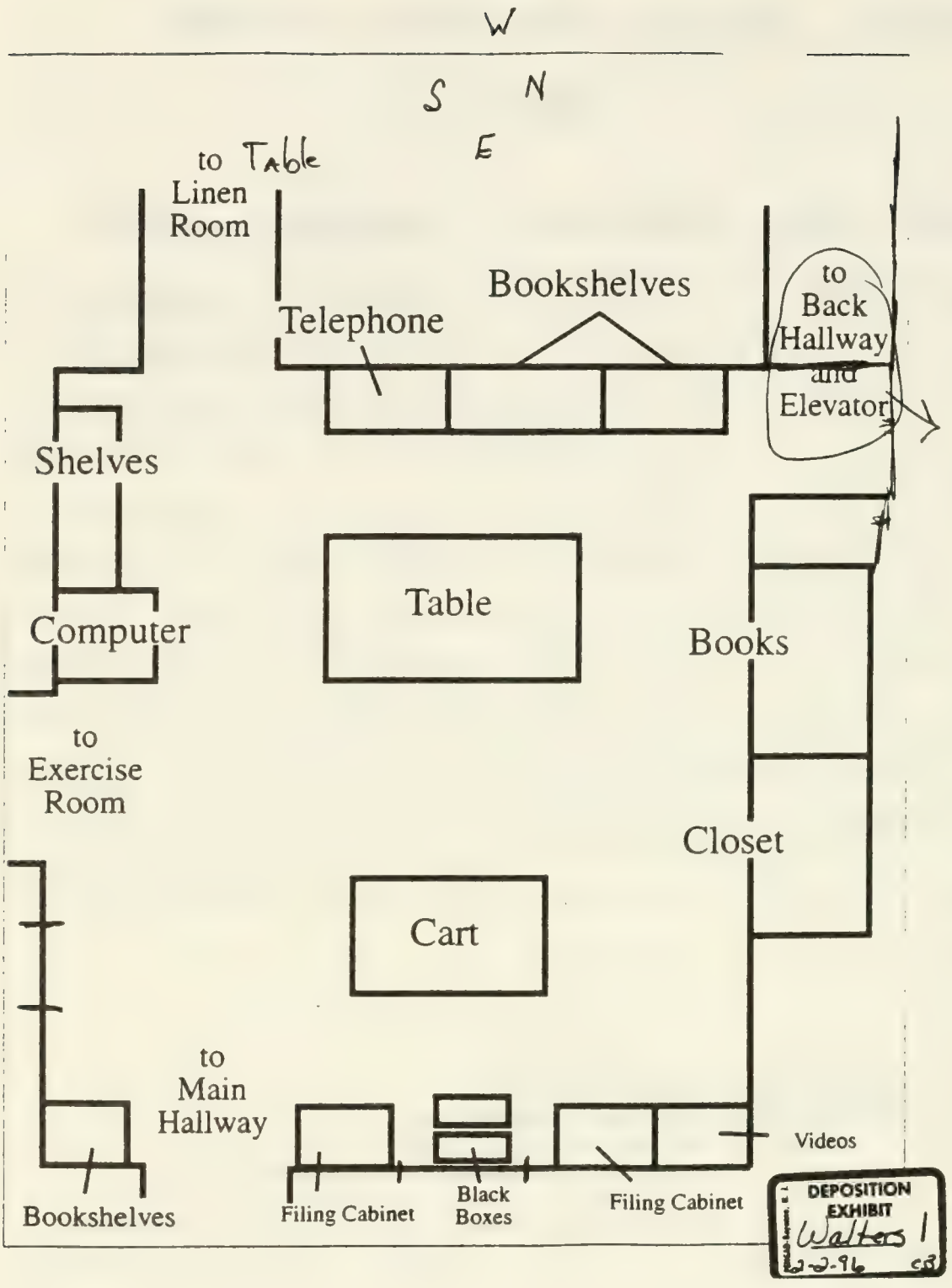
Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

DEPONENT _____

ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
75	17	TOUR	CHORE	WRONG WORD


W
S N
E
to Table
Linen Room
Telephone
Bookshelves
to Back Hallway and Elevator
Shelves
Computer
Table
Books
to Exercise Room
Closet
Cart
to Main Hallway
Videos
Bookshelves
Filing Cabinet
Black Boxes
Filing Cabinet
DEPOSITION EXHIBIT
Walters 1
12-2-96

JULY 20 - AUG. 4TH

RM 323 S020167 8/18; S020171 8/20; S020175 8/22
S020177 8/23; S020191 8/~~27~~ 30;

RM 319A S020123 7/26; S020125 8/2; S020173 8/21 319
S020175 8/22
S020177 8/23
S020191 8/30

RM 321/0 S020123 7/26; S020125 7/27; S020127 7/2
S020137 8/3; S020163 8/16 319A ~~X~~; S020167 8/18 319A ~~X~~

GENERAL CONTRACTOR - JCM CONTROLS INC.

FIRST FAMILY VACATION - ~ 8-19-95

DEPOSITION EXHIBIT Walters2 2-2-96 CB

DEPOSITION OF PATRICIA M. BLACK
IN RE: S. RES. 120

MONDAY, FEBRUARY 5, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of PATRICIA M. BLACK, called for examination pursuant to notice of deposition, at 10:55 a.m. in Room 640–A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, ESQ.
Majority Associate Special Counsel
ROBERT J. GIUFFRA, JR., ESQ.
Majority Chief Counsel
JAMES S. PORTNOY, ESQ.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

FRED W. GIBSON, JR., ESQ.
Office of the Inspector General
Federal Deposit Insurance Corporation
1735 North Lynn Street
Arlington, Virginia 22209
On behalf of the Deponent.

ALSO PRESENT: PAUL WEECH

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EXHIBITS

Patricia M. Black

DEPOSITION NUMBER	IDENTIFIED
Black Exhibit 1	103, 1969
Black Exhibit 2	105, 1970
Black Exhibit 3	159, 1971
Black Exhibit 4	163, 1972

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PROCEEDINGS

MR. GIUFFRA: Good morning, Ms. Black. My name is Robert Giuffra. I'm the chief counsel of the Senate Banking Committee. To my left is Chris Bartolomucci, who is an associate special counsel that works for the Majority. Further down is Jim Portnoy.

Are you deputy special counsel or associate?

MR. PORTNOY: I think I'm an associate.

MR. GIUFFRA: He is an associate Democratic special counsel. Further down is Paul Weech, who is counsel to the Democrats on the Banking Committee.

This is a deposition being conducted pursuant to Senate Resolution 120 which establishes a Special Committee administered by the Banking Committee to investigate Whitewater Development Corporation and related matters, among those related matters, certain activities of the Rose Law Firm related to its representation of the RTC.

The focus of your deposition today will be the Rose billing records found at the White House on

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January 4, 1996. The procedure is as follows. I will be asking you a series of questions and the Democratic staff will have an opportunity to ask you questions. You will be testifying under oath. You have a right to be represented by counsel. I see Mr. Gibson is here, so you will be ably represented.

Please state an appearance for the record.

MR. GIBSON: Fred Gibson, senior attorney with the office of the FDIC representing Ms. Black.

MR. GIUFFRA: I will attempt to go as quickly as possible. You will be testifying tomorrow. A transcript will be made available this evening and we will try, if you get here in the morning, to get a copy of it to you. I apologize for the quick turnaround time.

The procedure for the conduct of the deposition is set forth in the resolution. If you have any questions about objections and the like, we can talk about that. You are allowed to object to the form of the question. If you have an objection on grounds of privilege or relevance, the procedure that is specified in the resolution is that we can go

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ask the Chairman to rule on that objection. Hopefully we can avoid all that today. I can't believe this will be contentious.

Do you have any questions?

MS. BLACK: No.

MR. GIUFFRA: Mr. Gibson, any questions?

MR. GIBSON: No.

Whereupon,

PATRICIA M. BLACK

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GIUFFRA:

Q What is your present position, Ms. Black?

A I am an Assistant Inspector General with the FDIC.

Q What are your responsibility as an Assistant Inspector General with the FDIC?

A I head up an unit that is responsible for providing legal support for various aspects of the operation of the Office of the Inspector General and that also contains an inspection unit responsible for

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performing inspections within the FDIC.

Q Do you still have any responsibilities for what might broadly be described as Madison-related matters?

A Yes. I have been asked initially by the Chairman and within the FDIC by the acting Inspector General to conduct some follow-up work on a previous investigation that we did with regard to the Rose Law Firm and conflicts that that firm might have had with respect to work done by the Resolution Trust Corporation. I was previously counsel to the Resolution Trust Corporation IG, and I was acting in that capacity during the course of our investigation of the Rose Law Firm.

MR. GIUFFRA: Off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q I would like to focus your attention to the report that was issued by the Office of Inspector General of the RTC on August 3, 1995. You played a role in preparing this report?

A Yes.

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Q What was the extent of your role in preparing this report?
A At that time I was counsel to the inspector general. I was very active both during the course of the investigation in providing legal advice concerning leads to follow, so forth. In addition, I was very active in the drafting of the report itself.
Q Did you play role in terms of supervising the investigation? Was that more Mr. Switzer?
A That was -- I was certainly not in the supervisory chain of command. But I was certainly providing advice concerning the direction of the investigation, because the investigation concerned legal conflicts of interest. For that they needed a lawyer. So I certainly provided advice as to the direction of the investigation.
Q I would like to show you a document bearing Bates number DKSN 28928 through 29043. These are billing records that were discovered on January 4, 1996 at the White House.
Have you reviewed these billing records?
A Yes, I have.

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Q When did the RTC IG first make a request that would have called for the production of these billing records and to whom did it make that request?
A These billing records would have been covered by a subpoena that the RTC Inspector General issued in March of 1995, March 4th -- 1994. I'm sorry.
MR. PORTNOY: I'm sorry?
THE WITNESS: March of 1994, a subpoena to the Rose Law Firm.
BY MR. GIUFFRA:
Q The RTC IG did not send a document request to the Rose Law Firm; would have operated by subpoena?
A We issued an initial subpoena to the Rose Law Firm covering a broad range of documents. These documents would have been responsive to that subpoena.
Q That subpoena was served -- do you know the exact date in March?
A One moment. Let me see. It might be reflected in our report. I cannot recall off the top

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of my head.
Q Take your time.
(Witness examined the document.)
A I do not see it in quick reference to the report. It would have been very early in March. I will find out.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q That would have been the first communication by the RTC IG with anyone that would have called for these records?
A Yes.
Q So, there were no document requests sent first?
A No.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q So, the RTC IG has its own subpoena power?
A Yes, it does. Under the IG Act, the RTC had the authority to subpoena documentary evidence.

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Q If someone fails to comply with an RTC IG subpoena, what steps can the RTC IG take?
A The RTC IG could enforce that subpoena in U.S. District Court.
Q And failure to comply with a lawful subpoena by the RTC IG carries what consequence?
A Well, the subpoenas are not self-enforcing. We would have to go into U.S. District Court and enforce it. We were told that the Rose Law Firm had no records responsive with regard to the billings to Madison.
Q So, if someone possessed records responsive to an RTC IG subpoena and knowingly failed to turn them over, do you know what consequences might flow from that?
A If the subpoena related to an audit, there would be the -- if the subpoena related to an audit and there was an affirmative representation that records did not exist and the records in fact did exist, I would view that as obstruction of a federal audit.
If the subpoenas relate to an

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investigation, and again the affirmative representation is made that the records did not exist, there is the potential for an obstruction charge there as well.

Q In this particular case, was this an audit or was this an investigation?

A We had both an audit and an investigation going. The first subpoena covered both.

Q The audit was the aspect having to do with the actual amount of the bills?

A That is correct, the bills that were provided to the FDIC and then the RTC.

Q Did there come a time when the RTC IG served subpoenas on any other entities that would have called for the production of these billing records?

A No, we did not.

Q Did you ever serve a subpoena on -- let's make the record clear -- on the White House?

A No, we did not.

Q Did you ever serve a subpoena on the President and Mrs. Clinton?

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A No, we did not.

MR. PORTNOY: I think we could ask it this way. Did you ever serve a subpoena on anyone other than the Rose Law Firm?

THE WITNESS: No, we did not.

BY MR. GIUFFRA:

Q Did you ask the Rose Law Firm to attempt to collect records from former partners?

A The subpoena was directed to the firm itself. I would expect that to cover anything within the custody and control of the firm itself. I cannot recall if we asked them to go to former partners. I just don't recall that.

Q And you don't know whether the subpoena would have required the firm to ask former partners whether the former partners possessed records that might be responsive to the RTC IG subpoena?

A Again, I would have expected them to make the effort to obtain any documents within their custody and control.

Q You don't know whether records maintained by former partners would be within the custody or

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control of the Rose Law Firm?
A No, I don't.
Q What was your reaction when you learned of the discovery of these billing records at the White House?
A Well, I was certainly curious as to what was contained therein.
Q Did you have any reaction with regard to the fact of the discovery of those records within the White House?
A Well, I suppose like everybody else, I was somewhat surprised.
Q Why were you surprised?
A My understanding was that those documents had been requested. Just from reading the papers and so forth, my understanding was those documents had been requested by various entities, such as the Committee, and the RTC I believe had requested them, not the Inspector General's office, but the Resolution Trust Corporation itself in connection with its work.
Q That request had been made of the White

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House?
A That was my understanding.
Q Did you have any understanding as to whether there was a request also made to the President and Mrs. Clinton in their personal capacities?
A My understanding was that there had been, but I don't know that. I haven't seen the request itself.
Q The basis for your understanding is press accounts?
A Yes.
Q You would not have spoken with anyone at the RTC about RTC document requests to the White House or the Clintons?
A No, I did not.
Q Did the fact that you believed the -- strike that.
We have already established that the RTC request was just to the Rose Law Firm.
A The RTC Inspector General, yes, sir.
Q I apologize.

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Why didn't the RTC IG send subpoenas to other entities?

A We had no indication at that time that Rose Law Firm records would have existed anywhere else. We did not -- we had not heard at that time. Remember, our investigation closed several months ago. We did not know at that time that records had apparently been removed from the firm.

Q Did the fact that you believed that the RTC and other investigatory bodies had made requests to the White House and to the Clintons in any way affect your decision as to what subpoenas you would seek to serve? That was poorly phrased.

A Not particularly, no. We certainly would have expected that if RTC had any documents which were relevant to our investigation, we of course could obtain them directly from the RTC.

Q Was there a process by which the RTC IG would obtain documents from the RTC?

A Yes.

Q During the course of your investigation, were there occasions when the RTC provided relevant

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documents?

A Regularly, yes. Under the IG Act, the IGs have statutory authority to obtain any documents within the custody and control of their own agency, merely upon request. The agency is required to provide them, and the RTC always did.

Q Interesting. Did you have a request -- it is kind of a backwards way of doing this. Did you have a request of the RTC that would have called for the production of these Rose Law Firm billing records?

A It was not that formal. If we were in contact with the General Counsel's Office on a regular basis --

Q If the General Counsel's Office obtained possession of the Rose Law Firm billing records denoted, beginning DKSN 28928, you would have expected them to have been turned over to the RTC IG --

A Yes.

Q -- because they were directly relevant to your investigation?

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A Yes.
Q Do you know when the RTC first either by subpoena or request sought copies of Rose Law Firm billing records from the White House?
A I do not.
Q Do you know when they first sought billing records from the President and Mrs. Clinton?
A I do not.
Q Do you know if it was in 1994?
A I simply do not know.
Q But you know they did make such a request?
A I believe that they made such a request.
Q That is based on press accounts?
A I also spoke on a fairly regular basis with people in the RTC Office of General Counsel, and I may well have known it from talking with them as well. I just can't recall from what source I learned that.
Q You had an understanding that the RTC would have been by subpoena?
A I believe they did subpoena.
Q Had subpoenaed records from the White House

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and the President and Mrs. Clinton, they would have encompassed these billing records?
A That's correct.
Q You don't know whether that is based on press accounts or communications you had with the RTC, and it could be both?
A I believe it is both.
Q Your testimony is it would be probably from press accounts and the RTC?
A Yes. To the extent I said press accounts initially, that should be corrected.
Q Have you reviewed these newly discovered billing records?
A Yes, I have.
Q What impact -- strike that.
What do you believe to be the significance of these billing records?
A The investigation which we were performing in 1994 and completed in the summer of 1995 was an investigation of actual or potential conflicts that the Rose Law Firm might have had with regard to its work for initially the FDIC and then the RTC. As a

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part of that investigation, we looked at the firm's work for Madison Guaranty. We also looked at the firm's work, if any, for Seth Ward.

We looked at various transactions, including Castle Grande, IDC, the Frost litigation, the representation before the Arkansas Security Department and general work that they did for Madison Guaranty. These records -- the records that were available to us at the time we were doing our investigation were very sparse. It was very difficult for us to understand what the Rose Law Firm had in fact done. We had no more than a handful of invoices, five or six. Those invoices were typically in block format.

Q By that, you mean they were --

A The January 1986 invoices.

Q January 30, 1986. By that you mean just the long form invoice that was sent to the client?

A Yes.

Q It does not describe the time?

A It does not. It is a narrative of services all run together. It does not indicate what services

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were done by what attorney and so forth. That is what I mean by block format. As I said, those invoices were very few, and the ones that we found, we found in Madison's institutional records, which were then held by the RTC.

Q Let me ask a question about that. The invoices that you did obtain, to the extent you obtained invoices, you received from the RTC?

A We reviewed the Madison records themselves. They were located in Kansas City. We went to Kansas City and reviewed those records and pulled some invoices from those records. We also received them from Pillsbury, Madison. I believe Pillsbury, Madison had done the same thing, gotten them from the institutional records.

Q Pillsbury, Madison's work was just piggybacking the RTC subpoenas?

A Yes. Pillsbury, Madison was outside counsel for the RTC. We reviewed the records. As a matter of fact, I know I knew there was a subpoena because I reviewed records which Pillsbury, Madison obtained pursuant to that subpoena or pursuant to

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subpoena, so I knew there were subpoenas out there.
MR. PORTNOY: Did you say you reviewed the subpoena or the records?
THE WITNESS: Records, sir. To this date, I have not seen the subpoenas themselves that RTC issued.
BY MR. GIUFFRA:
Q Did you ever receive any billing materials from the Rose Law Firm?
A Well, of course we received a lot of billing materials for their bills to the RTC.
Q Just related --
A You are referring to Madison?
Q Relating to the Madison representation, yes.
A I do not believe that we did.
Q Did you ever receive a fee recap?
A We did receive a fee recap. We got that from Pillsbury, Madison also.
Q So your testimony would be that you didn't receive any documents related to the Rose Law Firm's representation of Madison?

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A We may --
MR. GIBSON: Let's go off the record for a minute.
(Discussion off the record.)
MR. GIBSON: Back on the record.
THE WITNESS: We may have gotten that fee recap as a part of our audit from the Rose Law Firm. I would have to check with the auditors to find that out. But we may have. I believe that counsel to the Rose Law Firm also submitted some time sheets for certain of their attorneys subsequent to the completion of our investigation. We did not have them at the time.
BY MR. GIUFFRA:
Q That would have been after August 3, 1995?
A Yes. And Rose indicated to us that it did not have invoices relevant to the Madison work. In fact, we gave them copies of what we had.
Q Was Rose cooperative in responding to your subpoenas for documents or subpoena for documents?
A There were two subpoenas for documents.
Q There was a second subpoena?

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A Yes. We subpoenaed their client list. They sued to quash the subpoena and to enjoin our investigation.

Q This was for the client list subpoena?

A Yes.

Q When was that subpoena?

A Again, as a part of the conflicts investigation, we subpoenaed a list of client names, only identities, not any indication of work done, but the actual client list or lists that the Rose Law Firm had maintained for the last 10 years.

We litigated over that for eight or nine months.

Q What was the result of that dispute?

A Our subpoena was enforced.

Q By the U.S. District Court?

A Yes. There were two actions. They initially sued us in Arkansas to quash the subpoena and to enjoin our investigation, which they considered beyond our jurisdiction. That action was dismissed by the U.S. District Court in Little Rock. We subsequently brought an action here in the U.S.

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District Court in Washington and ultimately our subpoena was enforced.

Q Was the Rose Law Firm cooperative with regard to the first subpoena for documents related to the representation of Madison?

A There were negotiations which were required. They certainly produced a great deal of material. Discussions were required. I would say they were reasonably cooperative.

Q Did they indicate to you that records of Mrs. Clinton were no longer in existence relating to her work with regard to Madison Guaranty?

A I don't know that we focused on specific lawyers. They indicated that their records with regard to Madison Guaranty were extremely sparse and they were not able to provide us very much at all.

Q Did they indicate to you that there had been any destruction of documents relating to Rose Law Firm?

A I don't know what terminology was used. We knew that obviously records had existed at one time and they no longer did.

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Q Was there any discussion of a document retention program at Rose?
A I believe that there was. But again, I would have to go back and ask the auditors and investigators who actually did that work. I myself did not ask them that. I will find out.
Q Getting back to the billing records found at the White House, would you agree that these billing records are the best available evidence of the extent of Rose's work for Madison?
A They are the best evidence that I have seen certainly.
Q Why do you believe them to be the best evidence you have seen of Rose's work for Madison?
A They are considerably more detailed than what was available to us before.
Q Would you describe these billing records as very important evidence with regard to Rose's work for Madison?
A Yes.
Q Why do you believe these billing records to be very important evidence with regard to Rose's work

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for Madison?
A Again, from our perspective, and keep in mind we were doing a conflicts investigation, whether or not there was a conflict of interest in representation depends on what the representation was. We were unable in many instances to ascertain what the representation was. This material indicates to a better degree what that was.
Q You mean what the representation of Madison was?
A Yes, what work they had done for Madison.
Q So, your report of investigation which was issued on August 3, 1995 would have been -- strike that whole question.
In view of the discovery of these billing records in January of 1996, your report of investigation dated August 3, 1995 was incomplete?
A It was complete as of August. We now have additional information which would have impacted that report.
Q This is information you would have wanted to have when you were doing your investigation?

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A Yes. In fact, it was information we tried to get from Rose, but they didn't have it.
Q To what extent do these billing records change anything contained in your report dated August 3, 1995? I apologize. You can backfill in later.
A It is probably as difficult to go back and figure out what impact evidence would have had on an investigation and how you would conduct an investigation as it is to figure out how you would have relitigated a case had you known certain things.

But had we had this material, certainly there would have been questions that we asked witnesses that we did not ask. There would have been lines of inquiry that we would have pursued that we did not pursue. There might have been witnesses that we would have asked to interview that we did not ask to interview.

Our report was a recitation of facts. There are facts here that would have been important and that would have been included in that report.
Q Without going through the records, and we

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will do that, what facts would have been set forth in your report that are not set forth -- strike that.

What facts could you have learned from the billing records that are not set forth in your report?
A The degree of representation. The nature of the representation before the Arkansas Security Department is eliminated by these records.
Q How is it eliminated by the records?
A There are indicators of what was done at certain times which would have been important to us. There are indicators of who did things at certain times that would have been important to us.

One of the issues that was material to our investigation was the matter of the degree of knowledge within the Rose Law Firm of the Arkansas 6 percent investment limitation. These records are relevant to that.
Q Let's focus on that single issue just for a few minutes. This investment limitation was a matter of state law; correct?
A That's correct.

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Q And this was something -- would you have expected a lawyer advising an S&L in connection with the acquisition of property to have been aware of this direct investment limitation?

A In general, I would expect a lawyer to be familiar with the laws of the state in which that lawyer is practicing as it affects that lawyer's practice.

Q Do you think a lawyer who had attended a closing on behalf of Madison Guaranty in connection with the so-called IDC-Castle Grande transaction should have been aware of this direct investment rule?

A It certainly would have been helpful. What we were looking at with the Rose Law Firm in this particular matter was whether there was actual knowledge, and we were aware that there was actual knowledge on Mr. Massey's behalf.

Q What was the basis for your belief that Mr. Massey had actual knowledge of the direct investment law?

A We had a memorandum from Mr. Handley on

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which Mr. Massey was copied that discussed the direct investment limitation. In addition, Mr. Massey generated a response to that memorandum.

MR. PORTNOY: With respect to the 6 percent rule?

THE WITNESS: Yes, he did respond.

BY MR. GIUFFRA:

Q Now, how did the billing records that were found at the White House change your analysis with regard to the extent of Rose's knowledge of the 6 percent limitation?

A The billing records --

Q Feel free to consult them if you would like.

A I will do that, as a matter of fact. If you will give me a moment, I would like to go to the records --

Q If I could direct your attention to page 28962.

MR. GIBSON: Let's go off the record while she flips through this stuff.

MR. GIUFFRA: Sure.

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(Witness examined the document.)
THE WITNESS: I have the memorandum from Mr. Massey and Mr. Handley's response.
MR. GIUFFRA: Ms. Black turned to page 28960 of the billing records.
BY MR. GIUFFRA:
Q What do you believe to be of import on this page?
A Well, there are entries starting at the top of the page under -- the top line of the description, "services rendered," the attorney is HRC and a conference with Mr. Massey. The second line is "telephone conference with Jim McDougal," and on my copy it is illegible, but I believe it is G-i-r-o-i-r.
The third entry is a "conference with Rick Massey." On 6/17/85, there is an entry, "review of application amendments." All of those that I just described were Mrs. Clinton.
Under Mr. Massey's -- under the designation RNM, which I believe is Mr. Massey, there is a "conference with S. Hawkins, research FHLBB rules,

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research necessity of FHLBB and FSLIC approval," "conference with Hawkins" again.
In addition, on a prior billing memorandum, I believe there is -- let me find it.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q What page?
A Again, it is cut off on my document. I believe it is 62.
Q This is the entry that has the limited partnership?
A Yes, matter number 2, "limited partnership."
Q Okay.
A Under the second entry on that page, under the initials -- Mr. Massey's initials, "research ASLAB regulations, research FHLBB regulations, re: B/D." These are three separate entries.
Q What is ASLAB?
A It is the Arkansas Securities -- no. Just a moment.

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MR. GIBSON: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q So, you believe that this is -- ASLAB is Arkansas Savings and Loan Advisory Board?
A I cannot remember the precise words that the acronym stands for, but it is the savings and loan entity in Arkansas.
Q Was the direct investment rule promulgated by ASLAB?
A It was promulgated by Arkansas. ASLAB dealt with it.
Q So that these billing records, the references to ASLAB regulations you believe relate in some way to the direct investment rule?
A I believe so.
Q What is --
A There would be other rules that they would have as well.
Q What is the basis for your belief?
A Going back to Mr. Handley's May 22nd memorandum, if you look in paragraph 1, Mr. Handley

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is talking about the applications filed with the Arkansas Savings and Loan Association Board, and he goes through some more things there. He is talking about rule 5(b)(2).
Q Yes.
A Saying it needs to be approved by the savings and loan supervisor. That appears to relate to ASLAB. He then in paragraph 7 talks about the 6 percent rule, and he references rule(5)(c). He appears to be referring to the same set of regulations, just a subsequent rule.
Q Your point is that if you look at the June 17 letter from Mr. Massey to Ms. Bassett on page 2, which is RIC 39286, Mr. Massey references the direct investment limitation, Rule 5?
A Yes, in numbered paragraph 7. So, he is answering Mr. Handley's concerns about violation of the direct investment. This is the document, and if you look at the last paragraph, "with this response Madison hereby amends the application." He is transmitting material in this letter and the attached physically amended application in response to

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Mr. Handley's letter or memorandum of May 22nd.
So this is Madison Guaranty's response to that.
Again, returning to the --
Q The billing records?
A Yes. The document that ends in 60.
Q 60 or 62?
A 60 now, back to 60.
Q Yes.
A There is an entry under Mrs. Clinton's initials on June 17, '85, indicating that she reviewed the Massey document, review of application amendments.
Q And the application amendments are specified in the June 17, '85?
A Yes.
Q The point is that the fact of the billing records disclose that Mrs. Clinton on 6/17/85 reviewed the application amendment, i.e., this two-page letter, indicates Mrs. Clinton was aware of the direct investment limitation?
A Those would be facts which might indeed

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suggest that and would have been referenced in our report.
Q Your point is that these billing records, number one, show that Mr. Massey had fairly extensive or some involvement --
A Yes.
Q -- with looking into the direct investment rule?
A Yes. If you look -- I didn't go all the way through the 62 document. There are various indications he is researching it and talked to people about it, entries by Mr. Massey.
Q So that the billing records indicate that the knowledge of the Rose Law Firm of the direct investment rule was broader than just Mr. Massey, who was then a young associate?
A There is some evidence of that, yes.
Q You would argue that -- strike that.
You might in a report reference the fact that Mrs. Clinton would have been aware of the direct investment rule because she would have read the letter, what she billed time for?

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A We would have referenced the billing entry.
Q The 6/17/85 entry?
A That's correct.
Q Are there any entries you would have referenced in the report relating just to the direct investment rule issue?
A Well, again, comparing what Mr. Massey is doing and when he is doing it, his research, he is doing research in late May and June that appears to relate to this direct investment rule. We know that Mrs. Clinton was the billing partner on this matter, and these billing records reflect that Mr. Massey is also having telephone conferences with Mrs. Clinton during this period of time. What those conferences were about is not reflected on these bills, but we would have referenced in our report the fact of the conferences.
Q Is there anything else you would have reflected in your report that is not reflected in your report relating to the direct investment rule on the basis of the bills? Take your time.

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(Witness examined the document.)
A At this point, I think I need to note that our review is not complete.
Q Of these bills?
A That is correct, and anything else that we might look at in connection with these bills. These bills have made us look at some documents differently, understanding that there is a different interpretation perhaps which is warranted. Our review is not complete. It is still ongoing.
Q Two questions. One, is the FDIC planning on doing a supplemental report based on the bills?
A Yes. The Chairman asked us to review this material and provide him a written report, and it is our intention to do that. That report would not be issued to the Chairman. It would be issued to the FDIC. The Chairman would be provided a copy. The Committee would be provided a copy.
Q This was actually the request that was made by Chairman D'Amato?
A Yes, it was.
Q To see whether your analysis would be

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different in light of the billing records.
A Yes.
Q Absent Chairman D'Amato's request, do you think the FDIC might have prepared its own report examining the billing records?
A I don't know. The request came fairly quickly.
Q So no one ever got to think about that question.
Would you consider the billing records found at the White House the most important evidence with regard to your examination of the Madison conflict issue?
A I don't know that I would say most important.
Q Can you think of any evidence that would be more important?
A Well, these memoranda that we had and letters from Handley to Massey were certainly of import. That is quite -- we already had those.
Q That is just limited to the district investment rule.

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A Yes.
Q In terms of your entire investigation --
A The Madison portion.
Q Can you think of any evidence more important than these billing records?
A We compiled an enormous amount of evidence. I think the Madison section of the report itself takes up about that much.
Q By "that," you mean a foot?
A Yes, about a foot. Again, our perspective was one of conflict, actual or potential conflict. We certainly had other documentary evidence which indicated that there were actual potential conflicts with Madison. We had -- we did not know the extent -- as much about the extent or the precise nature without these billing records.
I'm having a hard time saying that one piece of evidence is more important than another piece of evidence or is the most important.
Q You would agree that these billing records are a significant piece of evidence?
A Yes, sir.

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Q Would you say a very significant piece of evidence?
A Yes, sir.
Q And certainly among the most important evidence that you would have reviewed in the course of your investigation?
MR. PORTNOY: I think the witness has already testified that she doesn't want to go on the record stating that any particular piece of evidence is uniquely important. The fact you are trying to do so is inconsistent with her prior answer.
BY MR. GIUFFRA:
Q My question was, would you consider these billing records to be among the most significant pieces of evidence in your investigation. That is a different question. It is certainly fair game.
A I am comfortable saying it is important, it is very significant, and I think that is about the extent of my degree of comfort.
Q That's fine. Is there anything more --
Is there anything more in the billing records that is significant with regard to the direct

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investment rule?
A Again, with the notation our review is not yet complete, that is all that I have at the moment.
Q So, the significant new piece of evidence is the fact that Mrs. Clinton reviewed the application amendments --
A Again, remembering what we were doing was a conflict review, the degree of knowledge within the Rose Law Firm and whether it was at an associate level or a partner level was of some import to that. That is why it was significant to us.
Q And also the fact that Mr. Massey appears to have done a fairly significant amount of research into certain ASLAB regulations, including the direct investigation rule?
A Yes. We did not know that before.
Q You were just aware of the fact that he had sent this one letter?
A That's correct.
Q So this fills in the blank?
A Correct.
Q Now this direct investment limitation,

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would you consider that to be an important regulatory requirement for an Arkansas thrift?

A I am not a regulator. I was certainly not ever with FSLIC or the bank board. I would rely on the testimony of Mr. Clark who found it. I defer to him on that.

Q The purpose of this limitation was to limit the amount of risk that a thrift would bear in, among other things, real estate investments?

A Again, I believe that is something Mr. Clark testified to. I defer to him on that.

Q With regard to the representation of Madison by Rose with the Arkansas Securities Commission in connection with the Rose preferred stock offering, do the billing records eliminate your prior analysis in any way?

A Again, blanks were filled in.

Q Do you recall any of the specific blanks?

A We knew again who was doing what. When we interviewed Mr. Massey about that, he could recall very little, and he recalled very little involvement by anyone other than himself. The records indicate

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additional involvement.

Q By other members of the Rose Law Firm?

A Yes.

Q Let's just turn to page DKSN 28943.

A Yes.

Q Why don't we turn to 28934 and we will just go through the bills in order. 28934 appears to be a bill for $1700 for legal services rendered by Rose in connection with this preferred stock offering between April 23, '89.

A 34, I think the amount is $2,018.

Q I'm sorry. I was looking at the last page. That's correct. $2018. The last page indicates $1700.

A Yes.

Q Did you have this document, 28934 to 36?

A No, we did not.

Q Is there anything significant in this particular document to your analysis?

A As I indicated earlier, and if I may back up, we did not do an analysis; we reported the facts. The investigative report is strictly a

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recitation of facts which we issued to RTC so that it could take appropriate action.
Q It was up to the RTC to analyze the facts that you found?
A Yes.
Q Did you actually make judgments as to different facts?
A We report facts that we find.
Q You don't make any determinations with regard to which facts?
A No. For example, if we have one witness saying X occurred and another saying no, it did not, we report both. We report both interviews.
Q So you don't find facts?
A We are not a finder of fact, no.
Q A fact gatherer?
A That's correct, and that is what the report reflects. On this document, there is once again a breakdown, both by attorney and by nature of the work being done by that attorney, which we did not know before. Had we known it, we would have reported it.
Q Are there any specific facts that can be

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gleaned from this invoice, 28934 to 36, that you would have highlighted in the report?
(Witness examined the document.)
A I believe our report focused on the work that we knew Mr. Massey had done. It also reported the references in the letters to Mrs. Clinton and letters to her. We reported those things. Had we known the material in here, we would have reported that, the telephone conferences between Mrs. Clinton and Mr. Massey, the conferences with Ms. Schaffer and Mrs. Clinton. We would have reported them as facts.
Q So, these billing records indicate greater involvement by Mrs. Clinton in the stock offering than -- strike that.
These billing records indicate that Mrs. Clinton had greater involvement in the stock offering than you believed when you issued your report on August 3, 1995?
A Yes.
Q And specifically, that would be greater telephone conferences with Mr. Massey, conferences with Mr. McDougal, review of the subscription

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agreement by Mrs. Clinton and the actual telephone conference with Ms. Bassett?

A That indicates with more precision. We certainly did know before that there was some involvement because she was referenced in a letter.

Q But you didn't know, for example, that the time that was billed in connection with the telephone call with Ms. Bassett and telephone call with Mr. Massey on April 29, '85 was one hour?

A No, we didn't know those specifics.

Q That is an important piece of evidence to know the actual time of the call?

A Yes.

Q Now, if you look at page 28940, this is a billing memorandum of the Rose Law Firm. Have you found in reviewing these records that billing memoranda tend to be important pieces of evidence as opposed to the actual invoice?

A Yes, particularly where the billing memoranda break down what occurred and when.

Q And also the amount of time?

A Yes, the amount of time. Especially in

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instances where there is a block bill that is issued, a block invoice which indicates nothing as to who did what or when, and even the standard invoices that are not blocked do not break down the time spent on a given activity.

Q It is important for your investigation to know how time was spent in terms of trying to ascertain the knowledge of the entire firm with regard to these activities?

A It is a relevant piece of information.

Q So you want to know, for example, how much partner time was spent and how much associate time was spent on a particular issue?

A That is relevant.

Q So, for example, with regard to the direct investment rule, if you are trying to ascribe knowledge on the part of the firm on a particular issue, i.e., the direct investment rule, the fact that a partner bills time to it is significant?

A Yes.

Q Rather than just a first- or second-year associate spending a lot of time on something?

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A Yes, although you are getting into the area of imputation of knowledge to the law firm. If any member has knowledge, there is some argument as to imputation. It is a matter of strength of the argument.

Q Is the argument of imputation stronger when there is communication of information to a partner as opposed to an associate?

A I would defer to the analysis that is being done by the FDIC as RTC's successor as to the legal import of those things.

Q Do you have --

A I would -- as a reporter of fact, I would certainly report that so that they could analyze it.

Q You don't know whether it has any legal significance, whether information is to an associate as opposed to an associate and a partner for purposes of conflict analysis?

A I would consider that important.

Q Now, this page 28940 indicates that Mrs. Clinton billed five hours of time to this matter, and Mr. Massey looks like about 9.850.

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A We are reporters of fact.

Q It indicates that Mrs. Clinton had some role with regard to the preferred stock offering?

A It does.

Q And billed about half as much time as Mr. Massey to the stock offering?

A That's what it indicates.

Q You were operating under the assumption back on August 3rd '85 -- strike that. You were operating under the assumption based on the facts you were aware of as of the time you issued your report, August 3, 1995 that -- strike the whole question.

When you issued your report on August 3, 1995, what did you believe to be the extent of Mrs. Clinton's work on the stock offering?

A We reported what we found, which was that the documentary evidence of communications was from Mr. Massey, although at least one letter went back to Mrs. Clinton. So some involvement was evident from that.

Mr. Massey's recollection that he was the primary attorney on it and that there was not much

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involvement by Mrs. Clinton.
Q What would be your analysis now that you have had the opportunity to review the records?
A Again, we did not analyze. We would report the fact that there is more involvement than Mr. Massey appeared to recollect at that time.
Q In fact -- strike that.
Do you make any -- do you ascribe any significance to the fact that partners bill less on matters than associates, because the partner is normally the supervising attorney?
A I think that that is probably true. I am not following what you are getting at.
Q My point is that in your report of August 3, 1985 -- 1995, the lion's share of the work on this matter was being done by Mr. Massey; correct?
A Correct.
Q And in view of these billing records, it appears that Mrs. Clinton had a significant role with regard to this matter?
A That is correct.
Q And that Mr. Massey billed nine hours and

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Mrs. Clinton billed five hours, and Mrs. Clinton was a partner, as a factual matter it would appear that Mrs. Clinton bore a substantial amount of the labor inured on this preferred stock offering, at least as reflected in the billing records.
MR. PORTNOY: I believe the billing records speak for themselves.
MR. GIUFFRA: She is represented by counsel. You don't have to inject every five seconds.
THE WITNESS: This is a fact that we would have reported to RTC for its evaluation.
BY MR. GIUFFRA:
Q The fact of the greater involvement by Mrs. Clinton, a partner in the Rose Law Firm?
A Yes, the fact of the amount of her involvement.
Q Let's go to DKSN 28928 to 32. It is the very beginning.
A Yes.
Q This is a client billing and payment history.

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A Yes.
Q You did not have this when you issued your report?
A I did not.
Q Is there anything significant in this document?
A This document is a document which reflects who the billing partner is for all of the work done by Madison.
Q Was that an issue about which you had some question?
A There was some question as to that. There was some -- there was a document that we had that was a handwritten document opening matter number 5 IDC which had billing code number 42 on it. That code was a code which designated the billing partner.
Q That would be Webster Hubbell.
A That was Mr. Hubbell's code. We asked Mr. Hubbell if he was a billing partner, and he said no, he was not. But we reported that, and there were conflicting pieces of evidence on that. The fact was that there was a handwritten notation that indicated

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Mr. Hubbell was the billing partner. We did not have this, which indicates that Mrs. Clinton was.
Q The billing partner for the IDC matter?
A That is correct.
Q Is there anything else significant on this particular document, 28928 to 28931?
A To the extent that this document and others reflect amounts and to the extent of billing, to the extent that that is relevant to our analysis, I would prefer to defer to Mr. Switzer, who you will depose this afternoon. He is the auditor --
Q That's on the audit question.
A As an auditor, he also is analyzing these numbers.
Q To see whether there was overbilling or just to analyze them?
A To analyze them and see what he finds.
Q The extent of the billing is a proxy for the extent of the work by the firm for Madison?
A Yes.
Q Let's go through. Did you have this document, 28933? We will just go through them in

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order. That may be the fastest way to do this.
A No.
Q Did you -- do you ascribe any significance to this document?
A This is a document indicating -- a nearly illegible document, I might add, indicating work that had been done for the Bank of Kingston. We knew that there had been work done by the Rose Law Firm. Again, we did not know how much. We probably would have reported that.
Q The fact that the total fees were $13,000?
A Were there were a couple of numbers here. One indicates 13,060. Another is 14,266. I'm not sure what the significance of that is.
Q Does this document indicate to you greater involvement by Rose with regard to the Bank of Kingston?
A As I said, we knew there was involvement. We didn't know the extent. I don't think we made any particular judgment as to that.
Q Does the handwritten note, "HRC, I believe there was a subsequent bill" have any relevance to

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your investigation?
A It would indicate that there was work beyond this that was done.
Q What about the fact that someone had been reviewing these records? Let me strike that.
You don't have a copy of the actual documents as they were found, but if I were to tell you that that notation "HRC, I believe there was a subsequent bill" is in red ink and the rest of the document was a copy, would you ascribe any significance to that fact?
A Our investigation was of the conflict. I understand that is of concern and import to the committee. Our investigation was of the conflicts.
Q Okay. Let's go to 28942 -- one quick question before we go too quickly.
Let's go to 28940.
A Yes.
Q This document indicates Mrs. Clinton spoke with Ms. Bassett on 4/29/85. Did you know in your report when Mrs. Clinton had spoken to Ms. Bassett?
A No, I don't believe we did.

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Q The fact that the Rose Law Firm sent a letter the next day, 4/30/85, to the Arkansas Securities Commission setting forth arguments for why Madison should be able to issue preferred stock, is that -- does that fact have any --

A Again, it is a fact that we would have reported.

Q The fact that the call was followed by a letter providing --

A We would have indicated that.

Q Is there any factual significance you can draw from the fact that the call was followed one day later by a letter setting forth the reasons why Madison should be able to issue preferred stock?

MR. PORTNOY: In any sense, Bob, or with respect to a conflicts investigation?

MR. GIUFFRA: We will deal with respect to a conflicts investigation.

THE WITNESS: We would have reported the fact for the RTC to deal with.

BY MR. GIUFFRA:

Q Could the fact that Mrs. Clinton spoke to

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Mrs. Schaffer the day before the firm sent a letter, would that be material to a conflicts investigation?

A I would have to think about that for a while. The fact that there was contact is a reportable fact. I'm not sure how much significance from a conflicts standpoint the timing assumes.

Q But that is a fact you would have reported?

A Yes.

Q Let's go to 28942. This is an entry "limited partnership." Were you aware of the limited partnership aspect of Rose's representation of Madison at the time you did your report on August 3, 1995?

A That is the issue that we knew of as the broker-dealer matter. It is reported somewhat differently here, but it is the same thing.

Q Would your factual discussion in your report be different in light of this billing record? Just more detailed?

A More detailed.

Q Greater involvement by Mrs. Clinton? Did you believe Mrs. Clinton to have any involvement with

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regard to the broker-dealer matter?
A I think it was similar to the securities issue, that there was minimal involvement, and these records indicate a somewhat greater involvement, which we would have reported.
Q Let's go to 28949.
A Yes.
Q This document also reflects more communications with Mrs. Clinton and Mr. Massey with regard to this broker-dealer issue; correct?
A It does.
Q And it also reflects a conference between Mr. Massey and Mr. Handley; correct?
A Yes.
Q And, again, the amount of time, particularly with regard to the drafting of the application, might have some bearing on the direct investment rule issue?
A It might have some bearing. I note, however, that that particular entry occurred prior to the actual notice by --
Q By Handley?

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A By Handley of the rule. That is a significant event.
MR. GIBSON: I'm sorry. You mean the notice is a significant event?
THE WITNESS: Yes.
BY MR. GIUFFRA:
Q Why is the notice -- strike that. Mr. Handley notifies the Rose Law Firm of the district investment rule issue on May 22, '85; correct?
A Correct.
Q Why is that a significant notification for purposes of your conflict analysis?
A The fact of notice and the fact that it predated the IDC closing is of some import.
Q Why is it of some import?
A In analyzing potential, actual -- actual or potential conflicts that the Rose Law Firm might have had with regard to its subsequent representation of the RTC in connection with the litigation by RTC against Frost, the IDC transaction is important.
The Frost litigation in terms -- when doing

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damage analysis for the Frost litigation, a loan to Mr. Ward was included in the damage calculations and certainly affected the litigation.

Q In fact, Rose decided not to include it in the damage calculation; correct?

A Rose and the RTC.

In addition, the general issue underlying the Frost litigation was the degree to which Frost was responsible, liable for the losses incurred when Madison Guaranty failed.

There, one of their defenses was that insider transactions caused that institution to fail, and it would not have mattered what the institution's accountant told the institution because the insiders were going to do what they wanted to do anyway.

Rose was the law firm representing the RTC in refuting that defense. Under conflicts rules, and again we were looking at conflicts, if the lawyer's own conduct can become an issue in the case, a conflicts problem arises.

In this instance, that was a possibility because Rose had been involved in the IDC matter on

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which losses, because of insider dealing, were sustained by the institution. That fact is reportable, at a minimum is reportable to the RTC.

Q It would be a significant fact?

A It was a significant fact. And that was never disclosed by Rose. Again, we were doing a conflicts investigation.

Q Basically, the issue would be the failure of Rose in connection with the IDC investigation to flag the direct investment rule when they knew of the direct investment rule from the stock offering raises an issue for purposes of the conflicts analysis; correct?

A That is an issue which is raised. The very participation is an issue which is disclosable.

Q The very participation by Rose in the IDC transaction?

A Yes.

Q But then --

A Even if they knew nothing.

Q From the billing records, you were able to see that the knowledge of Rose with regard to the

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direct investment rule is greater than you thought it was as of August 3, 1995; correct?
A That is correct. When I say that the very participation I believe is reportable to the RTC, that is because the RTC requires reporting not only of any actual conflicts but any potential conflicts. They had a very clear and very extensive policy of full disclosure.
Q Wouldn't it be an actual conflict if a law firm had knowledge of a regulatory requirement and was involved in a transaction in which the transaction was structured to evade that requirement and then was involved in suing the accounting firm that had audited the transaction?
A Again, we reported the facts. We did not and it was not our purpose to conclude on them. I believe RTC has a report from Pillsbury, Madison which doesn't discuss these billing records but discusses the potential conflicts and actual conflicts.
Q Have you reviewed the Pillsbury, Madison report on the Rose Law Firm?

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A I am not sure how many are out there.
Q Let me just show you a particular -- we have one right here. Have you reviewed a report on the representation of Madison Guaranty Savings & Loan by the Rose Law Firm prepared for the RTC by Pillsbury, Madison dated December 28, 1995?
(Witness examined the document.)
A Yes, I have seen this. I have also seen one on -- the report by Pillsbury on the Frost litigation itself, and that one discusses conflicts.
Q That would be the report dated December 28, 1995, the report on the Rose Law Firm's conduct of accounting malpractice litigation pertaining to Madison Savings & Loan by Pillsbury.
A Yes.
Q You would think after reviewing both of those reports that these billing records might -- strike that.
Pillsbury was relying in part upon your factual analysis in doing its report?
A Yes.
Q Am I right that Pillsbury wasn't rely --

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they were relying almost exclusively on you guys?
A The Frost report relied extremely heavily on our report and I believe was generated -- it says it was generated as a result of our recommendation that they review our -- that RTC legal had their outside counsel review our work.
Q The longer report which is just on the Rose Law Firm representation, that relied in part on your work?
A Yes. Our report was certainly cited on a number of occasions in that report as well.
Q Therefore, you think both of those reports are incomplete to the extent that they don't reflect the information contained in these billing records?
A That is correct.
Q And that might well change the analysis contained in those reports?
A I would defer to Pillsbury on that.
Q Going back to 28949, this just indicates the extent of the involvement by Rose in the broker-dealer transaction. This indicates further the extent of the involvement by Rose in the

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broker-dealer transaction; correct?
A Yes, it does.
Q And also indicates that Mr. Massey was not the only lawyer involved?
A That is correct.
Q That Mrs. Clinton had billed a half hour to this transaction, at least at this particular point in time?
A That's correct.
Q Let me show you page 28955 through 57. This is a July 15, '85 bill. You didn't have a copy of this bill when you prepared your report; right?
A No, we did not.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q Is there anything significant about this page, 28955, that we haven't already discussed? This is just another way of formatting the bill.
A That is correct. It is just another -- it is the bill that was formatted from the billing memorandum which we already discussed.

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Q With regard to 28962, the bottom entry, this indicates that Mr. Massey actually was aware of the direct investment rule at the time, the 7/1/85 entry; correct?
A The 7/1/85?
Q Yes, the last entry.
A Not necessarily. That seems to be referring to the federal -- there were two direct investment rules that were at issue here. That one appears to refer to the federal rule, which was different than the 6 percent limitation.
Q I see.
A There were two things -- there were three things at issue in Mr. Handley's May 22nd and a subsequent June 18 memoranda. One was the 6 percent direct investment rule. That was an Arkansas state rule.

Two was a question of prior supervisory agent approval for investments of an institution, specified investments, the supervisory bulletin, there is reference there for an institution that is below the minimum net worth requirement. And then

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there is the federal direct investment rule.
Q Am I correct that -- do you know whether as a factual matter -- strike that.

So, it is not only the Arkansas 6 percent limitation that is at issue in the IDC transaction but there is also a federal direct investment rule that is at issue?
A The supervisory bulletin I would think is at issue, the prior supervisory approval that Mr. Handley says is required. I do not know whether the federal direct investment rule was actually at issue. It was raised.

If I may refer to the June 18, 1985 memorandum from Mr. Handley to Beverly Bassett and Nancy Jones. You just picked up what was left of my documents. You need -- I don't know where your copy went.

The second page, numbered item 3 discusses the minimum net worth requirements of the bank board's regs. The second paragraph of that references supervisory bulletin S 85-60 from the Home Loan Bank Board of Dallas which sets forth the

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regulatory requirements to meet the regulatory net worth requirement. "One of the regulatory consequences which is set forth in this bulletin is," and there follows a quote from the bulletin itself "an insured institution cannot make direct investments in secured corporations, operating subsidiary, equity security," and my copy is cut off, so I don't know how that word ends, "or real estate without prior written approval of the principal supervisory agent."

Q Is that the second page?

A Yes.

Q This document, which bears Bates number RIC 039, indicates at least a knowledge of a federal direct investment issue by Mr. Massey.

A And the prior approval requirement. Mr. Massey responds to that in his July 10, '85 letter to Beverly Bassett and Nancy Jones and Charles Handley at the ASC. The way he addresses it, he takes issue with whether the federal requirement is triggered with regard to the acquisition of the broker-dealer operation.

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Q Do you know whether the federal direct investment rule would have been triggered in connection with the IDC transaction?

A I do not know. I do not think it was, though.

Q Let's turn to page 28979 to 80. Actually, let's just stick with 28979. This is a November 20, '85 bill relate to the IDC matter. Did you have a copy of this bill?

A No, we did not.

Q What if any significance do you ascribe to this particular bill?

MR. GIBSON: What page number?

MR. GIUFFRA: 28979.

THE WITNESS: I was looking at the wrong document. Let me look for the next one.

(Witness examined the document.)

No, we did not have this one.

This document indicates the work being performed by Mr. Thrash on IDC matter number 5 for the Rose Law Firm. He was reviewing the contract for sale and so forth. It sets out various

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descriptions.
Now, we had some knowledge of this because these -- at least some of these descriptions, perhaps not all of them -- I would have to make the comparison -- but some of these descriptions I know review contract for sale reflected in the January invoice. To the extent these are reflected there, we were aware of work being performed.
BY MR. GIUFFRA:
Q This bill at least indicates to you the dates on which work was performed by Mr. Thrash?
A That's correct.
Q In fact, these billing records can be used to correspond with the various drafts of the sales agreement?
A That's correct.
Q Did you have drafts of the sales agreement when you did your report?
A Yes. I had at least some.
Q You are aware of the issue with regard to the assignment clause?
A Yes.

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Q By looking at these billing entries and looking at the drafts, you can see perhaps what might have motivated the change with regard to the assignment clause?
A Or the timing thereof, yes.
Q Particularly with regard to communication with Mr. Ward; is that right?
A Yes, there is communication with Mr. Ward.
Q Now, the extent of Mr. Ward's involvement in the IDC transaction, was that a significant issue for the purposes of your conflicts analysis?
A Yes.
Q Why was that significant?
A Again, Mr. Ward's loan was one of the loans that entered into the damage calculation in the Frost lawsuit.
Q Mr. Ward was related to Mr. Hubbell?
A Yes, he was.
Q There was also an issue as to whether Rose represented Ward in connection with this IDC transaction?
A Yes, there was.

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Q In fact, whether it represented both Madison and Mr. Ward?
A That was an issue, yes.
Q Did you reach any conclusion?
A Once again, we reported what was said about that by people we interviewed.
Q What was said about that? What was said about the question of whether Rose represented both Mr. Ward and Madison in connection with the IDC transaction?
A I need to refer back to our report.
Q Take your time.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
THE WITNESS: The issue of the degree of representation, if any, of Rose -- by Rose of Mr. Ward arose in connection with our investigation. It was something on which Mr. Hubbell had made a representation to the RTC attorney in charge of the case with respect to his own personal potential conflicts, the question of Mr. Ward being his father-in-law, the question of his involvement in the

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litigation of Madison, Ward v Madison, which was a piece of state court litigation involving commissions Mr. Ward said he was owed, and this investigation prior to federal takeover of the institution, although the RTC inherited the appeal, because Madison lost that case and then RTC intervened and pursued a new trial and ultimately settled the case.
The degree of involvement with Rose by Mr. Ward was of some import to our investigation and to RTC's conflict analysis. We reported what Mr. Hubbell had to say about that, which was that he did not represent Mr. Ward in the Madison -- Ward v Madison litigation. We reported facts that we derived that we found, discovered concerning a letter that had been backdated.
BY MR. GIUFFRA:
Q This is a September 24 --
A September 24th, yes. That's the date that is on there. The parties agree that it was backdated. But we were not able to find --
Q When Mr. Hubbell -- Mr. Hubbell advised you that he did not draft that letter?

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A Mr. Hubbell advised us he did not draft that letter. We interviewed Mr. Hubbell's secretary, who indicated that she might well have typed it.
Q Because the formatting was the same?
A Yes, and the type appeared to be the same as the typewriter she used at that time.
Q What is the significance of that? Let's get it out.
A We also reported a note that Mr. McDougal sent to Jim Guy Tucker concerning the --
Q Legal opinion?
A The legal opinion that transmitted an opinion that had been sent to him by Mrs. Clinton and stated Seth Ward's lawyer.
Q SW 1 to SW 107.
A This is the agreement, a letter signed by Ward and acknowledged and accepted over the signature of James McDougal, which purports to set forth the terms of the agreement between Mr. Ward and Madison concerning the acquisition of the IDC property.
There was a previous September 24 letter, and that one appears to have been signed on September

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24th, as opposed to this one, which was not.
The previous one differs from this one. The substantive differences are that Madison Guaranty is to pay $35,000 to Mr. Ward for -- in order to have this option.
Q $35,000; is that right?
A $35,000, yes. "Madison Guaranty will pay $35,000 to me to have an option of at least to purchase the property from me at any time, in whole or in part, for at least the pro rata amount of the note. This is the second distinction, except for one parcel described as follows," and there is a description of a 22-1/2-acre parcel which has become known as Holman Acres.
Q The significance of the fact of -- if it could be shown that -- let's go back. The first September 24 letter did not appear to be drafted by a lawyer; is that correct?
A It did not appear to.
Q This appears to be what is drafted by a lawyer?
A This one has certain earmarks which I would

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expect came from a lawyer, yes.
Q The question is whether this was drafted by Mr. Hubbell or by someone else in the Rose Law Firm.
A Or elsewhere.
Q What would be the significance of the fact, for purposes of your conflict analysis, if someone in the Rose Law Firm drafted this second September 24 letter?
A This 22-1/2-acre parcel became the security for a subsequent loan by Madison to Mr. Ward, and that became a part of the Ward v Madison litigation. That was also related to a note that Madison Financial made to Ward which indicated that Madison Financial owed Mr. Ward $300,000.
All of these things were of some import in the Ward v Madison litigation.
MR. GIBSON: Let me ask a clarifying question here, if I may. You are answering the question about the significance of this document based on the assumption that someone at Rose drafted it. Do you have any knowledge that anybody at Rose drafted that document?

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THE WITNESS: I do not. All we have is the statement from the secretary that she may have typed it.
MR. GIBSON: I just want to clarify for the record that your answer is based on that assumption that Mr. Giuffra is asking you to assume in answering the question.
THE WITNESS: Yes. The fact -- the question of involvement by the Rose Law Firm in representing Mr. Ward was important to the RTC. They had concern about that.
BY MR. GIUFFRA:
Q Obviously the greater the extent you can show -- you did not know at the time you issued your report in August of 1995 the extent to which there had been communications between Madison -- between Rose lawyers and Mr. Ward; right?
A That is correct.
Q These billing records indicate there was some substantial communication between Mr. Ward and Rose lawyers?
A They do indicate that.

Q And you were completely unaware of that fact at the time you issued your report?
A We were -- there was some indication of at least some communication. The note that I mentioned before, Seth Ward's lawyer sent him that, would indicate that Mr. McDougal thought there had been some communication.
Q That is just the single handwritten --
A That is correct.
Q -- note involving the wet/dry issue?
MR. PORTNOY: If I might take you up on your invitation, the record before you did indicate that Mr. Ward was involved in negotiations, didn't it?
THE WITNESS: What negotiations? I'm sorry?
MR. PORTNOY: Between Madison Guaranty and IDC, the acquisition of the IDC property.
THE WITNESS: Yes. He was clearly involved in that.
BY MR. GIUFFRA:
Q But his interactions with the Rose Law

Firm, that was something you did not know about?
A That's correct.
MR. PORTNOY: You knew that he was involved in the acquisition negotiations and you knew that the Rose Law Firm was representing Madison in some measure in connection with the acquisition; is that correct?
THE WITNESS: Yes.
MR. PORTNOY: But you didn't know the specifics of his interaction with the Rose Law Firm?
MR. GIBSON: If I can interject with a clarifying question here, too. Which interactions are we talking about? Are we talking about Seth Ward's interactions with the Rose Law Firm in August or September, or are you talking about Seth Ward's interactions with the Rose Law Firm subsequent to that period of time from November, December, January and forward? Which interactions are we talking about?
MR. GIUFFRA: I was talking about both, just in general trying to speed this up.
BY MR. GIUFFRA:

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Q First of all, these billing records indicate that during the time the transaction was being consummated, i.e. the sale of the IDC property to Madison, that Mr. Ward was someone with whom a Rose Law Firm attorney, Mr. Thrash, was communicating?

A Those documents do indicate that. We also did know that Mr. Ward was involved with the first IDC purchase and that Rose represented Madison with regard to that purchase.

Q The significance of the September 24 letter is that that indicates that at least whoever reviewed it was aware of Ward's arrangements with Madison?

A The significance of this letter, clearly the persons preparing it would know of Ward's arrangements with Madison. It also became a critical piece of evidence in the Ward v Madison litigation itself, which RTC was pursuing at the same time that the Frost litigation was going on.

Q Why was the September 24, '85 a critical piece of evidence in the Ward v Madison litigation?

A It was the exception of the 22-1/2-acre

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parcel -- that was all -- that 22-1/2-acre parcel, Holman Acres, was all that was left over when the IDC property had been transferred, sold at the end of February, February 28th, I think was the Castle Water and Sewer sale. That left Mr. Ward holding a 22-1/2-acre parcel.

This letter sets forth an arrangement concerning the potential disposition of that parcel separate and distinct from all the other land that existed. It excepts it from that transaction.

Madison, under this document, has no option to purchase this parcel. This parcel became security for a $400,000 payment, the land was mortgaged on a $400,000 payment to Mr. Ward. This parcel also became the subject of a May 1 option agreement.

Q You did not have a copy of the option agreement at the time you wrote your report?

A No, we did not.

Q Do you consider the option agreement to be an important piece of evidence?

A Let me back up. We may have had a copy of that option agreement as a part of the record in the

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Madison v -- Ward v Madison litigation. I believe we did have that.

Q Were you aware at the time -- this is S 11 -- SW 170 through '74.

A We did have that.

Q Were you aware this was drafted on Mrs. Clinton's computer at the time you wrote your report?

A No, we were not.

Q No one knew who drafted this agreement?

A No.

Q Obviously the fact that it was drafted at the Rose Law Firm was relevant to your conflicts analysis?

A Yes.

Q Why would it be relevant to your conflicts analysis, the fact that it was drafted at the Rose Law Firm?

A Once again, that was a fact that was at issue in the Ward v Madison litigation. Mr. Latham indicated, it was his testimony in that litigation that the May 1 option agreement was intended to

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supersede both the $300,000 note from Ward to Madison Financial and the $400,000 note from Madison Guaranty to Ward.

The option agreement he described as more accurately reflecting the transaction that the parties intended to agree to but in their haste to get the documents in place had not in fact agreed to, on paper anyway, back in late March and early April.

That was a defense. That was the primary defense and perhaps the only defense which the institution, Madison Guaranty, set forth in the Ward v Madison litigation. Mr. Ward said no, the option agreement was not intended to replace the $300,000 note, and therefore you owe me $300,000. He didn't know -- he testified that he didn't know why Madison wanted the option, but they gave him a thousand dollars to execute it, so he did.

That was a central fact in that litigation.

Q And the fact that it was known at the time that Rose Law Firm lawyers had been involved in drafting the option, that would be a significant fact

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for your conflicts analysis?
A The timing?
Q No, the fact that they were involved in drafting the option.
A Yes.
Q That is something that is disclosed in the billing records?
A That's correct.
Q We have the conferences with Thrash and Ward which were significant, showing greater involvement by Madison -- by Rose and Ward on this transaction.
A It shows the specifics of involvement that we did not know.
Q If you look at 29000 -- why don't you turn to 28997, actually.
A Yes.
Q This bill indicates telephone communications between Madison and Seth Ward as well as conferences with Daryl Dover. This appears to be time that should have been billed to the IDC transaction; correct?

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A Mr. Dover was IDC's attorney. So, that would appear to relate to IDC.
Q Let's turn to 29002.
A Yes.
Q You have reviewed this page of the billing memorandum; correct?
A Correct.
Q Let's just turn to a couple things. The fact that this is billed to stock offering, we have an entry on 11/26/85, Mrs. Clinton for an hour, "conference with Seth Ward, conference with Thrash, conference with Hubbell." Does that have any bearing on your conflicts analysis?
A Well, Mr. Thrash dealt, as far as we know, dealt only with IDC.
Q We have no reason to think that Mr. Ward had any involvement with regard to the stock offering?
A No, not that I can recall. I don't believe so. And Mr. Hubbell is involved in the conference which would have been a factor that we would report.
Q Why would you have reported this fact?

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A Mr. Hubbell was RTC's attorney on -- lead attorney, outside counsel on the Frost litigation. He had indicated that he did not represent Mr. Ward in anything related to his conflicts with Madison.

While this does not by any means prove that he did so, it indicates a contact which might be important to RTC in conducting its review of this matter, and we would have reported it.

Q Did Hubbell say anything about whether he had personally done any work for Madison in '85 and '86?

A I would need to refer back to his interview.

MR. GIBSON: Off the record.

(Discussion off the record.)

THE WITNESS: I would need to look back at that interview --

BY MR. GIUFFRA:

Q What Hubbell said. Turn to 29008.

A Yes.

Q This is a billing memorandum for the general account. This indicates conference with Seth

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Ward regarding purchase with Brook Lyle. Do you know who Brook Lyle was?

A Brook Lyle was an officer, I believe the president of IDC.

Q So, would this communication conference with Seth Ward regarding purchase of Brook Lyle by Mrs. Clinton be a reportable fact?

A This was another indicator of the degree of involvement on the IDC purchase.

Q As opposed to the wet/dry issue?

A Yes. I was asked in my testimony in the House whether Mrs. Clinton had any involvement with the IDC purchase, and I answered no, she did not, except for the wet/dry issue and the Castle Water and Sewer issue which arose subsequent to the purchase.

This is also subsequent to the purchase. It is on 11/14/85, but it indicates some involvement or questions about that purchase that we did not know before. I would not have answered that question that way had I known.

Q In fact, do you recall testifying at the House "we have no evidence that Mrs. Clinton worked

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on Castle Grande"?
A That's what I said.
Q You would want to amend that answer in view of these billing records?
A Yes, I would.
Q How would you want to amend your answer with regard to the extent of Mrs. Clinton's work on the Castle Grande matter?
A I still do not know the extent of her work, if any, during the period of September, October, November -- well, September and October. I know there was some work in November. We do not have still the billing memoranda for Madison, IDC and matter number 5, which might indicate that, but that is not a part of this. I only know about the involvement on the 14th because we have the general matter, matter number 4, general bill. This entry clearly relates back to IDC.
In addition, there was subsequent involvement on the option agreement.
Q By Mrs. Clinton?
A Yes, that I did not know about at the time

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I testified last summer.
MR. GIUFFRA: Do you want to break now?
MR. PORTNOY: Let me ask one question. Does anything in this billing record indicate to you that Mrs. Clinton had any involvement prior to the closing?
THE WITNESS: This billing record is dated in November, so no, it indicates -- it indicates a conversation on November 14th. I don't know what occurred before then because we don't have those billing memoranda, if anything.
BY MR. GIUFFRA:
Q Is it also a problem with -- the January 30 bill is the bill we know was sent out for the September and October work. They were rolled into that?
A That's what Mr. Clark of the Rose Law Firm testified to, yes.
Q Mr. Clark also testified that Mrs. Clinton has some 14-1/2 hours that are unaccounted for, we don't know what she did and when she did it in connection with IDC.

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A I have seen the billing memorandum in which there is a handwritten change. I believe Mr. Clark indicated that he thought that was additional billable hours.
Q We don't know when that time was billed?
A No, we do not.
Q We don't know what she did?
A No, we don't.
Q That raises a question as to whether Mrs. Clinton was involved in the acquisition of the property?
A It raises a question as to what was done and when. The step you took is an additional one that I can't take.
MR. GIUFFRA: Let's take our break now.
(Whereupon, at 1:05 p.m., the deposition was recessed, to be reconvened at 1:55 p.m. this same day.)

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AFTERNOON SESSION (1:55 p.m.)
Whereupon,
PATRICIA M. BLACK
resumed the stand and, having been previously duly sworn, was examined and testified further as follows:
EXAMINATION (Continued)
BY MR. GIUFFRA:
Q Ms. Black, in preparing your factual summary, you were seeking to elucidate facts that were material to the RTC's conflict inquiry with regard to the Rose Law Firm?
A We set forth those facts which we thought would be material in a summary fashion, yes.
Q So, there is a judgment that you need to make with regard to the materiality of a particular fact to a conflicts examination by the RTC?
A Well, when one sifts through an investigation, and particularly an investigation like this, which was lengthy and document-intensive, one obviously sifts through a lot of information. Yes, some judgment has to be exercised as to what you pull out in the way of relevant information. The fact

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that we make the judgment -- in essence, the judgment we are making is what we think this will represent to the decisionmaker. That does not mean that we are right.

Q For example, the fact that Web Hubbell had conferences with Mrs. Clinton and Mr. Ward as denoted in these billing records, do you think that would have been a material fact for the conflicts analysis?

A We definitely would have reported it.

Q Why would you have definitely reported these communications with Mr. Hubbell and Mr. Ward and Mrs. Clinton?

A RTC and various individuals with RTC during the course of the Frost litigation had expressed a concern about Mr. Hubbell and his connection with Mr. Ward.

RTC in fact sought and obtained assurances by Mr. Hubbell that he was not involved particularly in the litigation with Ward v Madison, but more generally I believe his representation was with regard to his disputes, that is, Mr. Hubbell's representation was that Mr. Hubbell did not represent

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Mr. Ward in Mr. Ward's disputes with Madison.

To the degree that these records indicated conversations between Mr. Ward and Hubbell and Mrs. Clinton, we do not know what those communications were and whether they in fact were about matters that he had told RTC he was not involved with. But we would have reported that and allowed RTC to make that judgment.

Had we seen these records, we would have asked Mr. Hubbell about them.

Q Have you refreshed your recollection with regard to what Mr. Hubbell said?

A I'm sorry. I don't have his statement. It is a long interview, I think.

MR. GIUFFRA: Off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q How long, by the way, did you spend on this entire investigation, both the investigation process and the reporting process?

A I don't know the number of hours, if that's what you are asking.

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Q The time period?
A It began in March of 1994 and our report was issued on August 3, 1995.
Q So over a year?
A Yes.
Q And you have no idea as to the number of hours that would have been spent on this total?
A No, I don't.
Q But it was an extensive investigation?
A Yes.
Q Was this your primary investigation during this time period?
A There were investigators assigned to this. It was their primary.
Q Do you recall how many?
A As to the investigation as a whole or just the Madison aspect of it?
Q Just the Madison aspect.
A There was one investigator who worked on it extensively and I would say it was his primary responsibility. There were others, three or four other investigators who would have worked on perhaps

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bits and pieces of the Madison aspect of it. There were supervisory personnel.
Q Let's turn to 29010.
A Yes.
Q This document is a January 30, 1986 bill from Rose to Madison with regard to IDC.
A Yes.
Q Have you seen this document before?
A Yes. We had this document as of the time of our investigation.
Q With regard to --
A We had --
MR. GIBSON: Off the record for a moment.
(Discussion off the record.)
THE WITNESS: The document that we have, we had a slightly different version of it. Our version of it came out of the institution's records, and therefore it did not have the handwritten notations which appear on 29010.
BY MR. GIUFFRA:
Q Now, this document, 29010, this was an important document for your investigation; am I

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correct?
A Yes.
Q This at least specified some of the services that Rose had provided in connection with IDC?
A Correct.
Q But left open a lot of questions which you didn't know, which attorneys had performed what work and when the work had been performed and the extent to which particular attorneys performed that work?
A Correct, or how much time one aspect of it took versus another aspect of it.
Q Now, let's turn to the next page, 29011.
A Yes.
Q You would agree that this page is rather important to an investigation into the conflicts issue?
A This has material information, yes.
Q Why don't you just go through what material information is contained on this page.
A This document is the billing memorandum for matter number 5 IDC spanning the time period which

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primarily seems to be December and January.
Q Really a six-week period?
A Yes. There is a reference at the top to something that was done on 10/18/85 as well. So, there is one reference to other work.
Q We don't have the billing memorandums for the September and October bills; correct?
A No, we do not, except to the extent that there is one entry here that dates back to September.
Q Between --
A October. I'm sorry?
Q Between 12 --
MR. PORTNOY: We don't know if any such documents exist, just for the record.
MR. GIUFFRA: We don't know.
BY MR. GIUFFRA:
Q Between 12/6/84 and 1/24/85, Mrs. Clinton has seven phone calls with Mr. Ward. Would those phone calls be a reportable fact?
A Yes.
Q Would they be material to the conflicts

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investigation?
A They would be material to our investigation.
Q Why would they be material to your investigation? Why would these phone calls between Mrs. Clinton and Mr. Ward be material to your conflicts investigation?
A Again, the question which arose in RTC's mind was expressed by the RTC attorneys as one involving Mr. Ward. They had active litigation against Mr. Ward at the time.
In addition, the Rose Law Firm's work with the IDC matter was important to the conflicts investigation because of the impact that the IDC transaction ultimately had on the institution and the defenses that Frost could have raised in its work, in its potential litigation with the RTC.
Q From your review of the billing records, do you know how many telephone calls Mrs. Clinton had with Mr. Ward?
A I believe we counted up 15.
Q So, 15 teleconferences between Mrs. Clinton

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and Mr. Ward.
A Either telephone conferences or sometimes it just said "conference," whether that is a face-to-face meeting or telephone conference.
Q Why would those particular conferences with Mr. Ward and Mrs. Clinton be of relevance?
A Mr. Ward was one of the insiders at IDC whose actions were criticized by the regulators, and Mr. Ward's loans were at issue in the Frost litigation.
Q Do you have anything more to add as to why these phone calls might be relevant to the conflicts investigation? The fact that Mrs. Clinton was a partner at the firm? It just shows greater involvement with the firm and Mr. Ward?
A It shows the nature -- not the nature. It doesn't show that. It just shows a telephone conference. It shows a greater extent, yes.
Q The greater the extent of the firm's involvement with Mr. Ward, the greater the potential conflict issue?
A That's a conclusion that I would leave for

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RTC, now FDIC.
Q But obviously the more conferences that Mrs. Clinton had with Mr. Ward or that other Rose lawyers had with Mr. Ward, that would certainly be something that should have been disclosed to the RTC in connection with the Frost litigation; right?
A Yes, the work that was done by the Rose Law Firm in connection with matter number 5 IDC should have been disclosed to the RTC.
Q What is your understanding as to what was disclosed to the RTC by Rose with regard to its prior representation of Madison?
A At some point during the course of the representation, and there is disagreement as to when things were disclosed, certainly at some point it was disclosed that Web Hubbell was the son-in-law of Mr. Ward, that there was some prior representation with regard to what I believe was described as some narrow regulatory issues. Let me take a look at the report itself.
Q By the narrow regulatory issues, you mean the wet/dry issue?

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A I need to, I think, refer for a full answer to this back to our volume 3 of that report. I know that Ward was asked for and provided assurances with regard to his representation -- I said Ward. I meant Hubbell. He was asked for and provided assurance with regard to his representation and lack thereof of Mr. Ward.

I don't know that anything -- I do not believe anything at all was disclosed on matter number 5 IDC. I need to look back to find out exactly what was disclosed, but I believe it was relatively minimal.
Q Just in general about the prior work?
A Yes.
Q Perhaps what was disclosed had to do with the securities offer?
A That was my recollection, but I didn't look back.
Q There is an entry under "amount to bill" at the bottom of the page --
MR. GIBSON: Which page?
MR. GIUFFRA: 29011.

BY MR. GIUFFRA:

Q 2731.25 it says under "amount to bill," Mrs. Clinton's standard value is 91250. What if any significance do you say ascribe to that amount to bill number?

A Obviously that was approximately a threefold increase, and Mr. Clark of the Rose Law Firm indicated that he believed that was for additional work done.

Q By Mrs. Clinton?

A Yes, by Mrs. Clinton. That line is Mrs. Clinton's work.

MR. GIUFFRA: Let's have this marked as Exhibit 1.

(Black Exhibit 1 identified.)

MR. GIBSON: Off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q This is a document that the Committee staff prepared. What we have attempted to do is figure out what work was done to justify the $4651.50 that is billed on the January 30, '86 bill.

Based on your analysis, you would agree that the September and October bills total $1189; right?

A I'm not sitting here adding them up, but yes.

Q Have you taken any steps to ascertain what this 2731.25 number means?

A What it means?

Q Yes. What does it total?

A We have looked at these numbers. We have added them up and looked at differences. I would prefer to defer to Mr. Switzer on that. That is more his aspect of this than mine, if you are going to get into the numbers.

Q Roughly, just so the record is clear, what do you generally understand this 2731 to reflect? Just an increase of $1818?

A $1818, yes, that is about the increase.

Q Which would about to about 14-1/2 hours at Mrs. Clinton's billing rate of 125?

A That is right.

MR. GIUFFRA: Mark this as Exhibit 2.

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(Black Exhibit 2 identified.)
BY MR. GIUFFRA:
Q This is an attempt to calculate Mrs. Clinton's IDC billings. Have you attempted to ascertain how much of the -- let me strike that. Do you have any idea as to how much time Mrs. Clinton billed to Rose on an hourly basis?
A I have seen documents which reflect that. Our auditors put something together. I don't have it in front of me.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q Is it approximately 60 hours she billed or is that just a guess on your part, total, to Madison?
A That's my recollection, rough recollection.
Q Do you know how much she spent on IDC?
A I don't.
Q This document which we have prepared indicates 15 hours that we can identify exactly what Mrs. Clinton did.

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A That includes matters which were billed to IDC on the billing memoranda or invoices and also those which were found on other matter numbers but appear to be IDC-related.
Q Correct. You don't have any reason to dispute that that's a way to do this anyway?
A No.
Q Is that in fact what the RTC IG has attempted to do?
A Yes.
Q Take the stuff from the general account with the stock offering with the general partners that appear to be IDC-related and put it all in one category?
A Yes. We were in the process of doing that. That one was not complete as of this morning. Our review is ongoing. It was one of the things we were trying to break down.
Q This question of the 14-1/2 hours and what Mrs. Clinton did, that is an issue you are also looking at?
A We are aware of it. We are aware of the

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way it breaks down to an increased amount and her billing rates. But I'm not sure if you are asking are we doing anything else as to it.

Q Would the fact that Mrs. Clinton has billed an additional $1818 to IDC beyond what is reflected in the billing memoranda, would that be material to your conflicts investigation?

A It shows -- if Mr. Clark is correct and that represents increased time, it shows a significant increase in time over what was there before.

Q Why would a significant increase in time be material to your conflicts investigation?

A Again, we are looking at how much work was done on IDC, the extent to which the Rose Law Firm was involved. So that helps indicate the extent to which Rose Law Firm was involved.

Q And the greater extent the Rose Law Firm was involved, the greater the potential conflict.

A You are drawing the conclusion.

Q Based on your own knowledge as a lawyer who has experience looking at conflict issues, you would

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agree with that analysis that the greater --

MR. PORTNOY: Ms. Black has said she doesn't want to be drawn into making an analysis. That she didn't view as her role.

MR. GIUFFRA: You can object and I can ask the question.

BY MR. GIUFFRA:

Q The greater the amount of the firm's work on a particular matter, you would agree with that in principle?

THE WITNESS: Can we go off the record for a moment?

(Discussion off the record.)

MR. GIBSON: Back on the record.

THE WITNESS: Part of the problem I was having in answering your question, other than in general not wanting to draw conclusions where I can avoid it, is that we don't know what that work represents. It is the nature of the work which gives rise to the conflict, not the sheer amount. So, again, it would be a relevant fact, but I am not sure --

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BY MR. GIUFFRA:
Q It is a question to which there is no answer at this point because we don't have the backup information reflecting what Mrs. Clinton did to justify the $1118 addition to the bill?
A Yes.
Q If she had done work related to either the acquisition or the September 24 letter or the option agreement in that -- to justify that fee, then that would be relevant to the conflict analysis?
A Yes, it would.
Q You are currently looking into what was done to justify this 1818 addition to the bill?
A I don't know how much more can be done. I don't know if RTC has posed interrogatories in that regard or not. We are certainly looking at documents to see if we can connect anything.
Q Have you had a chance to review any of Mrs. Clinton's responses to the RTC interrogatories?
A Yes. Some of them. I don't know that I have all of them.
Q Do you recall reading an interrogatory --

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DKSN 806, this is response to interrogatory 17 K -- "Question: In April and May 1985, did you communicate with Arkansas Securities Commissioner Beverly Bassett with regard to a proposal by Madison Guaranty to issue preferred stock?" This goes into her answer, which I am reading in part to save time. "While I was the billing partner on this matter, the great bulk of the work was done by Richard Massey, who was then an associate of Rose and his specialty was securities law. I was not involved in the day-to-day work on this project."
Do you recall reading that answer to that interrogatory?
A I don't know that I have seen that document. I am aware that that response has been made. It I believe has been referenced in your hearings. I at least know it from that.
Q Do you think that the billing records call into question that interrogatory response?
MR. PORTNOY: I believe Ms. Black testified it has not been their practice to try to reconcile even apparent contradictions, assuming there was

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one.
THE WITNESS: We would in fact not make -- I think that -- we do not -- you are correct, we do not try to reconcile --
BY MR. GIUFFRA:
Q You would at least identify what appears to be a contradiction, however?
A We would state this is what was said, this is what the billing records show.
Q Does this appear to be a contradiction to you between that statement by Mrs. Clinton regarding her work on the securities project and the billing records?
A Again, we would simply report the fact and let those who receive the report make the judgments.
Q Does there appear to be a contradiction to you?
MR. PORTNOY: You are asking her to reflect her own personal policy and not as a representative of the Inspector General's office?
BY MR. GIUFFRA:
Q You can answer the question. For example,

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we now know from the billing memorandum page which we discussed, 28943, that Mr. Massey spent 9-1/2 hours on the stock offering in the period in May and Mrs. Clinton spent five hours on the stock offering time. Doesn't that seem to create a contradiction between the statement "the great bulk of the work was done by Richard Massey," going on to say "I was not involved in the day-to-day work on this project"? Wouldn't that flag an issue for you to at least look at and identify in your investigatory report?
A We would certainly identify the amount of time that she had worked, because from a conflicts perspective, the knowledge of the partner could be relevant and the time spent. We don't know with regard to a lot of these communications exactly what did occur. So, it is hard to reach a judgment.
Q You have already testified that the amount of partner time spent on a matter is relevant to the conflicts analysis.
MR. PORTNOY: I believe she also testified that it is the nature of the work, not just the quantity of the work, so the record is clear.

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THE WITNESS: Yes, that is correct. One looks at both in conjunction with each other.

BY MR. GIUFFRA:

Q If Mrs. Clinton is saying the great bulk of the work was done by Massey, yet it appears that he did 9-1/2 hours and she did five hours of work, do you think that would be the great bulk of the work being done by Mr. Massey? There seems to be a contradiction between what this says --

MR. PORTNOY: I am going to object. It is quite plain the witness doesn't want to answer the question that is --

MR. GIUFFRA: Witnesses don't want to answer questions all the time. Most of the witnesses that come here don't want to answer questions.

MR. PORTNOY: She obviously considers it beyond the scope of what she did with respect to the report and is uncomfortable with the whole area of inquiry. I will continue to object. I think it is perfectly appropriate for her to respond that way.

MR. GIBSON: Are you asking Ms. Black in her capacity as a federal investigative official to

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answer that question or are you asking for a personal opinion?

MR. GIUFFRA: As a federal investigative official.

MR. GIBSON: For the record, as a federal investigative official, her responsibility is to investigate and report the facts and not to draw those sorts of conclusions. Are you asking her to draw a conclusion with respect to the --

BY MR. GIUFFRA:

Q In preparing a report of investigation, you identify contradictions of facts; correct?

A We identify --

Q Contradictions.

A Yes.

Q You sometimes identify those contradictions?

A We identify contradictions. We identify supporting evidence. We don't necessarily say that this is a contradiction. We say witness A said this, witness B said that, the records say whatever the records say. We identify facts. We don't

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characterize them as contradiction, corroboration or otherwise. That's generally what we do.
Q So, you avoid describing two facts as being in conflict or in contradiction?
A We generally try to do that. We try to make it as strictly factual as possible.
Q You would agree you would at least flag the statement of Mrs. Clinton and also flag the billing record?
A We would report what she said and what the billing records said.
Q You are not prepared to say whether there appeared to be a conflict or a contradiction; is that right?
A That's right.
Q You would flag it as an issue potentially requiring the fact-finder to make some sort of a judgment?
A I would flag them as separate and distinct events, separate and distinct facts that we found, one fact being that Mrs. Clinton characterized her involvement and then repeated her characterization,

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another fact is the billing records.
Q Do you ever say in an investigative report whether facts support a conclusion?
A I don't know that I can say it has never been done. It is something we generally avoid.
Q Do you recall reading Mrs. Clinton's interrogatory response? Strike that.
Have you reviewed Mrs. Clinton's supplemental interrogatory responses dated -- have you reviewed those?
A May I?
Q Yes.
MR. GIBSON: This is an incomplete copy.
MR. GIUFFRA: Yes, it is.
THE WITNESS: I believe I have seen this document.
MR. PORTNOY: In its entirety?
THE WITNESS: Yes, and that appears to be a partial copy of the document.
MR. PORTNOY: I ask only because you said before you weren't sure you had seen all the interrogatory responses. I wasn't clear whether that

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meant you had seen isolated responses or weren't sure if you had seen every set.

MR. GIBSON: For the record, the copy of the interrogatories that you have just been shown, there wasn't a date, but I believe it was in January. Was that copy signed by anybody?

MR. GIUFFRA: I don't think it was signed that I'm aware of, although Mr. Kendall, Mrs. Clinton's attorney, provided it to the RTC.

BY MR. GIUFFRA:

Q Mrs. Clinton's interrogatories that were signed, the first set, signed May 24, '95, that would have been part of your investigatory record?

A I'm not entirely sure whether it was or not.

Q Are you aware -- in her supplemental interrogatory, this is number 64, Mrs. Clinton was asked, "describe the work you performed with respect to Madison Guaranty matter number 5," and she says, among other things, "I believe that the work I did on this matter consisted primarily of supervising research concerning legal issues such as whether it

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would be legal to open a tasting room for a proposed brewery in light of the fact that the land was arguably located in what was considered a dry township and other questions relating to the provision of water and sewer service by a utility which was located within the IDC property."

Do you recall that interrogatory response?

A Yes, and that goes on to identify some limited involvement with an option between Mr. Ward and Madison Financial.

Q Correct.

A Yes.

Q Have you reviewed the billing records to try to identify time entries of Mrs. Clinton relating to supervising research concerning legal issues, et cetera?

A We reviewed the billing records to identify time spent by Mrs. Clinton.

Q On supervising the research?

A Well, what we did was look at the entries and take them for what they were. I have not pulled out items which appear to be supervisory in nature

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versus other items, and with telephone conferences, they don't have any description of what went on.
Q It is impossible to know what went on?
A It is somewhat difficult to divide that down.
Q Unless you can look at when the call occurred.
A That might be some indication.
Q If a call occurred at some particular time, it might determine what it was about. In terms of the conflicts analysis, were there specific tasks the Rose Law Firm performed in connection with the IDC matter that were more relevant to the conflicts analysis than others?
A I guess it would be that some would fall into an area which would be of more concern, might indicate a conflict. Others would fall into an area that would not indicate a conflict. Some you can't tell.
Q If you were to try to delineate those areas for us, could you do so?
A Areas of work that would cause?

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Q Let's assume there is a spectrum from conflict to no conflict. Could you delineate which of the services that we are aware of that the Rose Law Firm provided fell closer to the conflict side and which fell closer to the no conflict side?
A We would report them all, because what we were trying to do was report everything that they did so that the finder of fact, if you will, or the people responsible for reaching these conclusions can determine whether or not they were conflicts.
Q In terms of reporting of certain facts that would be more material to a conflicts analysis than others?
A Areas -- there were certainly areas that we looked at very closely.
Q Which would be the areas you would have looked at very closely for purposes of conflicts analysis?
A We looked at the work that was done with regard to IDC.
Q But there are different types of work done with regard to IDC?

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A Correct.
Q With regard to the entire representation, you would say the IDC work would be the most relevant to your conflicts analysis?
A Again, all of the work they did for Madison was relevant.
Q Which would be the most relevant?
MR. PORTNOY: I believe once again Ms. Black testified they didn't do this kind of analysis, and you are asking her to do something that they haven't done.
THE WITNESS: I am also getting hung up on -- it would all be very relevant if we found that 100 percent of the work that was done and we reported and RTC would look at it and say there is absolutely nothing here that shows a conflict. A negative finding is also highly relevant. Do you see what I'm saying? I can't really --
BY MR. GIUFFRA:
Q For example, if you were to determine which would be more material to a conflicts analysis in terms of to show a conflict, it would be the IDC work

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or the work in connection with this preferred stock offering?
MR. PORTNOY: She has testified it was not her purpose to show a conflict but to provide information for the other decisionmaker to determine whether a conflict existed. You are asking her to do something completely outside the scope of the task she undertook.
BY MR. GIUFFRA:
Q Can you answer the question, Ms. Black?
A I'm afraid the answer I would have to give you is what I gave you before.
Q Do you consider yourself someone who is experienced at looking at conflicts involving law firms representing the RTC?
A Yes.
Q You have to know something about it in order to do your job?
A Yes.
Q You can't conduct your investigation unless you know what facts are relevant to a conflicts analysis and what are not?

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A Correct.
Q You can't sit here and say I just find facts. Some facts are more relevant to a conflicts analysis than other facts; right?
A Yes.
Q Would you consider the Rose Law Firm work on the IDC matter to be more material to a conflicts analysis if one were looking to see whether there was a conflict than the work on the stock offering?
MR. PORTNOY: Again, first of all, she has testified they weren't looking to see if there was a conflict. They were providing data for someone else to determine if there was a conflict. Secondly, she has testified her job was to lay out all relevant material both leading to the finding of no conflict and to allow someone else to make the determination.
MR. GIBSON: Off the record.
(Discussion off the record.)
THE WITNESS: In undertaking this investigation, we were certainly acutely aware that the regulators -- maybe not undertaking it, but during the course of the investigation, we became

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very aware that the regulators looked at the IDC transaction -- that the loans underlying that transaction caused substantial loss to the institution, that the matter of insider dealing was cited by the regulators as a cause of that and that that was a defense that was raised in the Frost litigation.
In addition, we were acutely aware of the Ward v Madison litigation and that that was of concern to RTC at the time and therefore we certainly did focus on IDC.
BY MR. GIUFFRA:
Q More so than you would have focused on the securities offering?
A We focused on all of it. We reported all of it. We were aware that IDC had been singled out for particular criticism by the regulators and that that would be of concern to the RTC.
Q In fact, in volume I of your report, there is in fact a discussion of conflict of interest rules applicable to the Rose Law Firm; right?
A Yes.

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Q You obviously have some familiarity with the types of conflict of interest rules that would apply.
A Yes.
Q Conflicts of interest rules that would and wouldn't apply in certain circumstances; correct?
A Correct.
Q Let's turn to the option, which would be 29026.
A What was the number?
Q 29026.
A Okay.
Q Just to go forward, if you turn to page 3, the executive summary of your report, you identify actual conflicts that should have been disclosed, potential conflicts that should have been disclosed.
A We did not distinguish between actual or potential. We looked at what should have been disclosed.
Q You are making a judgment as to what should and should not have been disclosed as a conflict in your report?

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A Keeping in mind that RTC and FDIC consistently required any possible, actual or potential conflict, so, yes, we did keep that in mind as we were doing our report.
Q In fact --
MR. GIBSON: Off the record.
(Discussion off the record.)
MR. GIBSON: Back on the record.
THE WITNESS: You were pointing to a discussion on I-3 where under -- that occurs under a heading stating "conflict of interest standards." We were setting out the standards that RTC had in place at the time. That's the portion that you were reading from, I believe.
BY MR. GIUFFRA:
Q I believe on I-3 you state "the Rose Law Firm represented 17 institutions on RTC matters. Rose Law Firm did not disclose actual or potential conflicts of interest with respect to seven of these institutions, some of which were involved in investigation and suits against professionals and officers and directors of some of these thrifts. In

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addition, the Rose Law Firm did not disclose to the RTC that it represented parties in matter that refers to the RTC."

A Correct.

Q You are making judgments in the report. You are.

A To a degree we do. We find -- we found that they needed to report actual or potential conflicts and we found that, without deciding whether it was an actual or potential conflict, there were things that should have been reported to the RTC to allow the RTC to make that judgment as to whether there was an actual or potential conflict.

Q On page "summary of investigative results" on pages I-3 through I-5, you discuss the Frost representation and you discuss to a large extent Castle Grande; is that correct?

A That's correct.

Q And these were matters that should have been disclosed by Rose to the RTC, what is set forth on page I-3 to I-5; correct?

A That's correct.

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Q And in delineating -- let me make it more simple. This report on --

MR. PORTNOY: Is it your testimony that everything on 3 to 5 is something that Rose had an obligation to report? That is not precisely how you characterized it in the written document. I want to be sure that's what you meant.

THE WITNESS: Well, what it says is "the following briefly outlines certain information developed during the investigation."

That's what is set forth on those pages. Included in that is information which should have been disclosed to RTC and was not.

MR. PORTNOY: Which is different from saying that everything on those pages should have been disclosed to the RTC and was not?

THE WITNESS: Correct. Some of this is just a straight factual recitation.

MR. PORTNOY: That was just a clarification question.

BY MR. GIUFFRA:

Q Looking at page I-3 to I-5, what do you

believe Rose Law Firm -- what is set forth in I-3 to I-5 that Rose should have disclosed to the RTC? Let's do that first. Then we will take the -- if you had this additional information from the billing records, what do you think should have been disclosed.

MR. GIBSON: Off the record for a moment.

(Discussion off the record.)

MR. GIBSON: Back on the record.

THE WITNESS: On page I-4, starting in the second full paragraph, the first sentence indicates that Rose Law Firm represented Madison Guaranty in the purchase of a large tract of property in Little Rock from IDC. That should have been disclosed. The second sentence describes the representation that we knew about at the time which came off of a January invoice. That was not disclosed and should have been.

The next sentence is a statement of law. The next sentence is a description of an examination report, of which Rose might or might not have been aware, so I can't say they were required to disclose

that. They may not even have been aware.

The statement that Madison Guaranty financed 100 percent of Ward's purchase with a nonrecourse loan, I don't know whether Rose knew that or not. There is a reference to the option from Ward to convey the property back to Madison Guaranty. That was a reference to the September 24th option in either of its forms, and we don't know whether Rose knew that or not. Nor do we know whether they knew about the agreement to pay Ward commissions. That depends upon whether they knew about that September 24th agreement.

The next statement is a statement of law again. And the final sentence in that paragraph deals with the provision of legal services to Madison Guaranty and to Ward on two regulatory issues with regard to Castle Grande. That probably should have been reported as well.

MR. PORTNOY: Is it your understanding that the Rose Law Firm represented Ward in those matters?

THE WITNESS: This states that they provided services, legal services to Madison Guaranty

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and Ward.
MR. PORTNOY: Is your understanding of that statement that it is a representation, a legal representation?
THE WITNESS: No. That was carefully worded. They provided legal services, and that is not necessarily in his personal capacity. He was an employee of Madison.
MR. PORTNOY: So this does not then mean that you have concluded in any way that Madison represented Ward in these matters -- I'm sorry. That the Rose Law Firm represented Ward.
THE WITNESS: Correct. So, the work that the Rose Law Firm did with regard to Castle Grande should have been disclosed to RTC.
The next paragraph is simply a description of fact. Then the next paragraph, the last one on the page, the first sentence "Rose was aware of regulatory concerns including its net worth through its representation with the Arkansas Securities Department."
BY MR. GIUFFRA:

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Q That is based on the Handley memo?
A Yes. That should have been reported.
Q And the Massey response.
A Yes.
We state Rose Law Firm did not -- this is at the top of 5. "Rose Law Firm did not disclose fully its relationship with Madison Guaranty in the purchase and development of IDC property to FDIC or RTC when it was retained in the suit against Frost & Company." Because that property was involved in another lawsuit with the -- that the RTC was defending --
Q That's the Ward versus Madison?
A Yes, and because that series of transaction involved insider dealing and was heavily criticized by the regulators, those facts were reportable.
Q Based on your review of the newly discovered billing records, are there any additional facts you believe Rose should have reported to the RTC?
A A fact we didn't know about until we looked at the billing records was that the option agreement

of May 1, 1986, which was material to the Ward v Madison litigation, was actually drafted by the Rose Law Firm. We did not know that. That is certainly a reportable fact.

Q Are there any other reportable facts that you have been able to glean from looking at the billing records?

A I think the entire extent of provision of services with respect to Madison was reportable. That doesn't mean that RTC would have concluded that any given set of facts was a conflict. Since actual and potential conflicts have to be reported, all of that representation should have been reported.

Q They should have reported, among other things, the number of phone calls with Seth Ward?

A I don't know that they would have gone into that kind of detail.

Q What kind of detail should they have gone into with regard to reporting information that might be relevant to a conflicts analysis?

A Typically a law firm, there would be a request to identify any of the primary actors,

representation by any of the primary actors in an institution.

Q What do you mean by that? Do you mean the people on the other side --

A The directors and officers.

Q If you had a communication with a director or officer --

A Not a communication, but a representation.

Q A legal representation?

A Yes.

Q In this particular case, this question that was flagged as to whether or not they were representing Ward in connection with Madison in this transaction?

A Correct. They said they were not.

Q Were you aware as far as the Rose Law Firm whether anyone represented Ward, any outside counsel?

A In?

Q In the Castle Grande transactions.

A Not that I'm aware of.

Q Based on your review of the record, who would you presume represented Mr. Ward?

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A I don't know that he was represented personally.
Q If he was represented personally, it would have to have been by the Rose Law Firm?
A I don't think there were any other attorneys at the closing. I would also like to note that we were focusing on -- this was a conflict investigation. We didn't investigate the whole IDC transaction. We just were attempting to ascertain Rose's connection with it. We didn't ask Mr. Ward were you represented by anybody else.
Q Can you think of any other information that maybe should have been reported based on the review of the billing records? Specific information. You identified the option. You identified just a greater reporting of the extent of Rose's services.
A They did not identify the IDC transaction at all, their involvement at the closing, that they were closing counsel on the property. I don't think there was any disclosure of any of their involvement with IDC to the RTC. Typically a law firm would issue a general description of what it had done. If

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it caused the RTC concern, the RTC would say maybe based on that general description, no, we can't hire you at all or maybe based on the general description they would ask more specific questions. But the IDC matter should have been disclosed and wasn't.
Q You are aware of Mr. Ward's statement in which he indicates that he did not speak to Mrs. Clinton about the legal research that Mrs. Clinton was involved in with regard to IDC; correct?
A Yes. I think he said he didn't recall talking to her about that at all.
Q You are also aware of the fact that he indicates he did not meet with Mrs. Clinton in connection with the IDC transaction?
A Yes.
Q Do the billing records appear to create an issue as to Mr. Ward's statements with regard to his dealings with Mrs. Clinton?
A Again, we would report what Mr. Ward said and we would report what the billing records showed. That would be an important --

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Q Important fact?
A Yes.
Q Because the extent -- Mr. Ward was the person who was in litigation adverse to the RTC?
A Yes.
Q Therefore, every single communication that the Rose Law Firm had with Mr. Ward would be a reportable fact?
MR. PORTNOY: That's not what she testified to.
MR. GIUFFRA: I will ask the questions. She is certainly capable of telling me if I'm wrong.
THE WITNESS: What I'm suggesting is that that a law firm would typically not report to RTC that on such-and-such a day I talked to someone. They would just report whether or not they had represented that person, and given the importance of the IDC transaction to Madison Guaranty and given the criticism which was attendant to that transaction, it is the representation with regard to IDC that that is important. In our reporting, the IG's reporting, individual conversations are important.

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BY MR. GIUFFRA:
Q To look at the extent of the communications?
A Yes.
MR. GIBSON: Let me ask a couple questions to make sure the record is clear. The litigation between Mr. Ward and Madison, do you know when that litigation was initiated?
THE WITNESS: Yes.
MR. GIBSON: When was it?
THE WITNESS: 9/2/87.
MR. GIBSON: The time of the representation of the contacts that we are referring to here between the Rose Law Firm and Mr. Ward, Mr. Ward -- that were billed to matter number 5, IDC, when did those contacts take place?
THE WITNESS: Those all predated the filing of the lawsuit.
MR. GIBSON: Predated by? When were they?
THE WITNESS: 18 months, roughly, to two years.
MR. GIBSON: For the record here, I want to

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make it clear that the contacts that we are referring to with Mr. Ward were not taking place simultaneously with this litigation, Ward versus Madison; is that correct?

THE WITNESS: That is correct.

BY MR. GIUFFRA:

Q What was the date that the RTC was retained, that the RTC retained Rose? It was '89?

A That is certainly in our report.

Q August of '89?

A '89. I believe it was August. It was March '89. I'm drawing a distinction here between what we would report in our report and what I would expect a law firm to report, and what I would expect a law firm to report is a much more general have you ever represented, yes or no, and in what sorts of capacity.

Q In this particular case, it appears at least with regard to the option, the option was drafted by Rose; correct?

A Correct.

Q No other lawyers appear to have been

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involved in drafting the option?

MR. PORTNOY: The May '86 option?

THE WITNESS: May 1, '86.

BY MR. GIUFFRA:

Q No other lawyers appeared to be involved in drafting that?

A Not to my knowledge.

Q So it appears Mr. Hubbell was handling the option for both Madison --

A Or Mr. Ward was doing it himself.

Q There is also evidence in the record that Mr. Hubbell occasionally represented Mr. Ward in many matters?

A I believe Rose has specifically complained about that and he didn't bill for it.

Q But he did provide legal services to his father-in-law?

A I believe that's what Ron Clark testified to.

Q In fact, the representation by Mr. Hubbell, even if it was free, of his father-in-law is something that can be imputed to the firm; correct --

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A That is correct.
Q -- for conflicts analysis?
Just so the record is clear, so we have it in one nice and neat place, why do you believe the option agreement was reportable?
A The option agreement was a critical fact in the Ward v Madison litigation. Again, Mr. Latham testified that that option agreement was intended by the parties to more accurately reflect their agreement with regard to the land and the notes that went back and forth between Madison Financial, Mr. Ward and Madison Guaranty.
Mr. Ward contended that it had nothing to do with that, and he didn't know why Madison Guaranty wanted this option agreement, but they were going to give him a thousand dollars for it, so that was fine with him.
The jury evidently accepted Mr. Ward's version of the facts because it awarded him a judgment. Had it accepted Mr. Latham's version of the facts, that judgment would not have been awarded.

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RTC not only was appealing the judgment but it was attempting to reopen the case at the time. That option was a very material fact in that litigation, to take the next step, and that loan was used or those series of loans were used in the damage calculation in the Frost lawsuit.
Q What is the connection between the September 24, 1985 backdated letter and the May 1 option agreement, if any?
A The backdated September 24 agreement referenced the 22-1/2-acre tract of land, Holman Acres, and excepted that tract of line from the --
Q Parcel that was shifted?
A Under the first September 24th letter, that parcel of land was included in Madison's ability to exercise an option. They already had the right under the September 24th letter. In the backdated September 24th, they did not have that right anymore. There would have been no need for the May 1 option agreement under the first letter. They already had the right.
Q At the time you prepared your report --

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MR. GIBSON: Off the record for a few moments.

(Counsel conferred with the witness.)

BY MR. GIUFFRA:

Q What if any was the relationship between the May 1 option agreement and the September 24 letter?

A I explained the existence of the option in the first instance or not. But to give a full answer, you have to go well beyond that. This transaction was one of the transactions -- "this transaction" being the note between Ward and Madison -- and the option itself was one of the transactions that was specifically noted in the May 8th examiner report, interim examination report as a criticized transaction.

The examiner notes, and I quote here, on the last page, page 11 of his report, "Ward still owns a small parcel which secures another Madison Guaranty loan and which will be purchased by Madison Financial. Ward apparently warehouses land to produce Madison Financial's investment and the

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attendant borrowing from Madison Guaranty."

This parcel was involved as security for the $400,000 mortgage note from Madison Guaranty to -- from Ward to Madison Guaranty. Ward took $400,000 out of that. This was the last parcel of land which had not been disposed of.

There was substantial testimony -- there was testimony at the hearing of Ward v Madison that right around tax time in 1986, Ward came to Latham and said I need for you to pay my commissions, you owe me $300,000 under the terms of our agreement and I need the money. Madison Financial could not give him the money at the time.

Ward has stated that Latham told him that the federal regulators were in and they couldn't give him that money at the time, they were looking closely at this sort of thing.

So instead they entered into a note whereby Ward took $400,000. That note was a personal recourse note as initially written, and it was secured by the property.

The testimony then was --

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MR. PORTNOY: The property being Holman Acres?

THE WITNESS: Yes. That was all that was left that Ward owned at that time.

Ward then a few days later apparently came to Latham and said now I owe you $400,000, and I don't have anything that shows that you owe me the commission. So, they drew up a note from Madison Guaranty to Ward that both parties agree was intended to represent the commissions owed by Madison Financial to Ward. No money exchanged hands in that note.

MR. GIBSON: If I can interject to be clear, was that note from Madison Guaranty to Ward or from Madison Financial to Ward?

THE WITNESS: That was from Madison -- that was a note that Madison Financial, not Madison Guaranty, Madison Financial made to Ward.

MR. PORTNOY: Mr. Ward has an unfortunate propensity for the word "Madison." It confuses the record.

THE WITNESS: Ward now has $400,000 that he

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has by note dated March 31st from Madison Guaranty. Ward also has a note for $300,000 from Madison Financial.

BY MR. GIUFFRA:

Q That's because he had some prior obligations with Madison Guaranty, I think.

A There were a long series of notes and they are rather difficult to trace. But a long series of notes back and forth.

Q If I could just summarize this, Ward owed Madison Guaranty $400,000, of which was the mortgage for the 22 acres?

A Correct, a personal recourse note.

Q That he would be obligated for?

A Uh-huh.

Q There was another note for $300,000 between Madison Financial and Ward going in Ward's direction?

A Correct.

Q And then Ward had the property?

A And Ward had the property, but it was securing his $400,000 note as well. It was both secured and personal recourse, the $400,000 note.

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Q The option works in that they get to buy the land, Madison Financial can buy the land for $400,000?
A Correct.
Q At the end of the day, if they exercise the option, Ward gets his $400,000 which he can use the pay off the $400,000 loan and then he walks away with the $300,000 that is owed to him?
A No, that is not what Latham contended was supposed to happen. Remember, that is a personal recourse note. It is not just the property securing it. That caused something of a problem, because it was recognized that Ward could end up getting the money and still have the property, which was not the intent -- we haven't executed the May 1 agreement yet.
Prior to the execution of the May 1 agreement, there was the potential for Ward to end up with the money and the property, the $300,000 note would have been canceled --
MR. PORTNOY: You said before the agreement?

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THE WITNESS: Before the May 1 agreement, there was the possibility of the money being paid off, but Madison would not have gotten the land. What the intended agreement was, according to the testimony in the trial, was that this last parcel of land would have been -- was supposed to end up being transferred to Madison Financial and Ward's commissions paid to him, $300,000 payment to him as a part of a land sale rather than a straight commission payment.
BY MR. GIUFFRA:
Q This is Latham's testimony?
A Yes.
Q All right.
A And that therefore they needed to execute the option agreement so that they could exercise the option, pay off the mortgages and the note was supposed to have been canceled.
Q What does Ward walk away from in that scenario?
A He walks away with his $300,000 in commissions, only it is represented as payment for

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the land. The effect of that, and again there is testimony to this effect by the chief financial officer of Madison in the transcript --

Q This is Latham?

A No.

Q Denton? The Denton memo?

A Greg Young. The effect of that is to have Ward's commissions -- Ward would have had about a $70,000 basis in that property. That was all that was left over on his original note. He had a $70,000 basis in that property. He would get paid about $400,000. The $300,000 would be capital gains under the agreement that they intended to reach. That was how Latham testified that the transaction was supposed to go down.

If you believed that scenario, then that $300,000 note was supposed to be handed back and canceled, which was typical of the way notes were handled in Madison at that time. They did that. He would get his profit as capital gains. What in fact happened was they executed the -- you can see that the examiner expected the option to be executed.

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"Ward still owns a small parcel which secures another Madison Guaranty loan and which will be purchased by Madison Financial." It is convoluted.

Q The only thing I don't understand -- off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q My question is going to be what was the connection between the September 24, 1985 agreement and the May 1 option that Mr. Ward had.

MR. GIBSON: Off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q We have had a discussion off the record, and Ms. Black has attempted to educate the Committee staff on how the option fits in with the other transactions and agreements that Mr. Ward had with Madison. This answer she is now going to give will supersede her prior incomplete answer.

A Okay. There are a series of transactions which are interrelated, and I am speaking from testimony which was given in Ward v Madison as well

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as from the documents.

The original September 24th agreement did not carve out the 22-1/2-acre parcel, Holman Acres. The backdated September 24th agreement did carve out that 22-1/2 acres as not being subject to Madison's ability to exercise an option.

When the parties therefore decided that an option -- strike that. Just to go back to where I said the original agreement did not carve that out, sometime around tax time in 1986, according to the testimony of both Ward and Latham, Ward came to Latham and said I now need my commissions that you owe me and I would like for Madison Financial to pay me $300,000.

According to a statement by Mr. Ward, I believe in a deposition in that case, he was told by Latham Madison Financial cannot pay you that money because the regulators are in here looking at a lot of transactions. Both parties agreed that Madison Financial could not pay at that time.

Therefore, the parties entered into a note on 3/31/86, whereby Madison Guaranty gave Ward a

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personal recourse loan which was also secured by the Holman Acres property. The effect of that transaction --

Q How much was that for?

A That was for $400,000. Ward therefore took the $400,000. There was also testimony at the hearing, and both parties agree, that Ward paid back 100,000 of that fairly quickly.

A week or so later, again all the parties agree, that Ward came to Latham and said I am now personally liable on a debt to you which has now been paid down to $300,000, and I don't have anything which shows that Madison Financial owes me my commissions. If something happened to you guys, meaning Latham and McDougal, nobody would know that you owed me the money.

Latham testifies that he said yes, you are right, therefore we, Madison Financial, will give a note that says we owe you $300,000.

So, Madison Financial gave Ward a note saying that Madison Financial owed Ward $300,000.

Q That is dated?

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A That is dated April 7, I believe. Just a moment. Yes.
Q Okay.
A So now Ward has the $300,000. He also has a note which evidences an indebtedness by Madison Financial to him of $300,000. All the parties agree that Ward did not in fact give Madison Financial $300,000, but rather, that is evidence of a prior debt owing by Madison Financial.
Some time passes and sometime in April they are talking again, "they" being Ward and Latham. Here their testimony diverges. Latham says that they became concerned, "they," the people at Madison, became concerned that if these transactions went through, the notes in essence would cancel each other out and Ward would still have the property and that was not part of the deal, because under the original September agreement, Madison was to end up with all the property, and that was the intent of the parties all along.
If these notes canceled each other out --
Q As of this point, Ward owes them $300,000

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and they owe him $300,000, plus he has the land?
A Correct.
Q So everything would cancel out and Ward would be up the property?
A Ward would be up the property, and that wasn't the intent of the transaction.
Q Okay.
A So they entered into a May 1 option agreement.
Q That gives Madison Financial --
A That gives Madison Financial the right to buy the land.
Q For $400,000?
A Yes. What they intended to do was cancel out the prior transactions and just literally cancel the notes.
Q And then give him the 400,000 for the land and he walks away with that?
A He gets 400,000 --
MR. PORTNOY: Less any remaining indebtedness.
THE WITNESS: Yes. There was another

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70,000 note which was outstanding. He would get paid approximately $325,000, roughly.

The two $300,000 notes would be canceled. There was the chief financial officer, Greg Young, of Madison who testified that the reason they were doing it this way, one of the reasons they were doing it this way would be to secure capital gains treatment for the $300,000 in commission.

Mr. Ward, however, says that he doesn't know why Madison optioned the land but that he never intended to cancel that $300,000 note.

BY MR. GIUFFRA:

Q Which note is that again?

A The $300,000 note from Madison Financial to Ward, and that the options agreement was not related at all. The option agreement was in fact never exercised.

The next event which happened after May 1 was Madison still was unable to exercise the option. Again, the regulators are still in there, in the institution. Ward came back to Latham -- again, this is per Latham -- and said now here I am personally

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liable on this March 31st note to you, so those two notes can end up canceling each other out, and I still don't have any commission because I'm personally liable on the note to you. If you pay me my 300,000, I have to turn around and pay it back to you.

Q So, Ward quit claims --

A No. At that point, on June 6, Latham says, gee, you are right, we still can't exercise that option, we don't have the money, we will release you from personal liability on the note. And he did that.

Q This is on June 6th?

A Yes. So now Ward is no longer personally liable on that note, and only the land secures it. So, Ward has the $300,000 from that note at this stage, which he no longer has to pay back, and he has a $300,000 note from Madison Financial.

Latham says at this point his mistake was that he did not get that $300,000 note from Madison Financial back from Ward.

Q So Ward at this point is sitting there with

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about 600,000?
A At this point he only has 300,000 which was secured by the land, and he has another 70,000 note which was secured by the land which he also has. So he has 370,000 at this point and a note for 300,000 more. In December he quit claims the property back, satisfying both the $300,000 note and a 70,000 note.
Q He is sitting there with 370 plus a note for another 300,000?
A Yes.
Q So he has about 670,000 when you add it all up?
A Yes. On September 2, 1987, he sues Madison on the $300,000 note. On August 30, 1988, a two-day trial began, and at the end of that trial, a jury awarded a judgment to Mr. Ward.
Q In the amount of how much?
A There were other moneys that were at issue here. There was a $35,000 that was referenced in the September 24th option agreement, the backdated one. He sued for that as well. He sued for $335,000. He admitted that he had one note on which he still had

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personal recourse that offset it, and then there were attorney's fees. The net judgment was about $350,000 to him after they offset the note and added in other fees that were owed to him.
So, he had about a $350,000 judgment. Madison appealed that in late 1988. In 1989, while that appeal was pending, the RTC intervened in the case and removed it to federal court. At that point, the state court no longer had any jurisdiction.
However, there was -- the parties had, Madison, had put up a $400,000 escrow amount to satisfy the judgment while it was on appeal. Despite the removal action, the state appellate court dismissed the case sometime in 1989 and Mr. Ward obtained the $400,000 which were in escrow.
At that point now Mr. Ward has $770,000, and RTC has a case pending in federal court. They are not only appealing the judgment in federal court but they are asking that this whole matter be reopened. They are trying to get a new trial.
That matter continues on until September 30, 1993, at which time Ward and the RTC settle the

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case. Ward pays the RTC $325,000 and he gets a full release. The net effect of that is roughly that Ward walked away with $455,000 out of the IDC transaction, roughly. That is how they are all related.

MR. GIUFFRA: Off the record.

(Discussion off the record.)

MR. GIUFFRA: Please mark this as an exhibit.

(Black Exhibit 3 identified.)

BY MR. GIUFFRA:

Q With regard to the billing records, the fact that the billing records disclose that Mrs. Clinton spent two hours on this option, what is the significance of that for purposes of the conflict analysis?

A Well, she billed two hours for drafting an option which became a critical document in the Ward v Madison litigation.

Q Meaning what was the intent of the option?

A The intent of the option --

Q Specifically what about the intent of the option?

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A Latham was contending that the intent of the option was to cancel out all of the prior notes and was a way for Ward to get his commission. Had the jury believed that, accepted his version of the facts, it would not have awarded -- it would have awarded judgment to Madison rather than to Ward. So, the option is critical there.

The other way that the option is critical is that it was related to the final land transaction that was criticized by the regulator in the May 8 interim exam report. This was the last property designed to be transferred as a part of the IDC deal. This is part of the property that he refers to as being warehoused. It was related.

Q As of the time you issued this report, August 3, 1995, you weren't aware of the fact that the Rose Law Firm had drafted this option agreement?

A That is correct. We had seen the option agreement.

Q But no one knew who drafted it?

A That's correct.

Q What was the testimony at the trial with

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regard to who drafted it?
A There was no testimony at the trial on that issue.
Q So, the fact that the Rose Law Firm had drafted the option agreement would have been critical to the conflicts analysis or important to the conflicts analysis?
A It is important.
Q It is important because it would have shown involvement by the Rose Law Firm in setting up this transaction that the RTC was now involved in suing -- was now in litigation with Ward over?
A It also related to the underlying defense of Frost in the litigation which concerned insider dealing.
Q Meaning that it indicated -- the fact that Rose was involved in preparing the option and the option might be construed by some as a way to provide money to an insider, i.e., Ward, indicates that Rose's own conduct might be at issue with regard to --
A The defense.

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Q The defense that was being proposed by Frost; is that right?
A Yes.
Q Frost's claim was that --
A Frost's defense essentially was that it didn't matter --
Q Because the insiders were all corrupt and they were basically eluding the bank?
A Correct.
Q What this option shows is involvement by Rose in a transaction that might be construed in this eluding of Madison?
A It does not show in and of itself any knowledge by Rose that this transaction was part of that --
Q Of a fraudulent transaction?
A Yes.
Q It does show Rose at least as a factual matter drafted a document that was critical to an insider transaction?
A Correct.
Q That regulators have criticized as being a

sham?
A Correct.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
MR. GIUFFRA: Mark this as Exhibit 4.
(Black Exhibit 4 identified.)
MR. GIBSON: The Federal Home Loan Bank 60-day interim report to which Ms. Black was referring is dated May 8, 1986, and it is included as Exhibit 52 of volume 3 of the RTC OIG Rose Law Firm report, WA 94-16, and the specific language that she was referring to is contained on page 11 of that document.
BY MR. GIUFFRA:
Q The document I just showed you was something the Committee staff prepared in which we attempted to look at the billing records of the Rose Law Firm attorneys and to see whether there were correspondent communications. For example, if Mrs. Clinton had a conference with Rick Massey and billed for it, whether Mr. Massey on the same day would have billed for a conference with

Mrs. Clinton.
Have you attempted to undertake this sort of analysis?
A No, we have not.
Q If there were instances in which Mrs. Clinton billed for time and then there was no corresponding time on the part of the other lawyer with whom she had a conference, that would indicate greater billings by Madison, correct, or greater work by Madison?
A On behalf of Madison, you mean.
Q Greater work by Rose on behalf of Madison.
A Possibly. Just anecdotally, I will note that when I was looking at the bills, I did notice that sometimes Massey would bill for a conference with Clinton on, say, just to pick a hypothetical date, March 23rd, and you would see a conference that Clinton had billed with Massey on March 24th. It might be a day off. It might indicate more work done. It might indicate one attorney forgot to bill. It might indicate they got their dates wrong.
MR. PORTNOY: Or even a policy not to

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double bill the client?
THE WITNESS: It wouldn't be double billing because they both had the conference. That is fair enough.
MR. PORTNOY: But a policy not to bill for two attorneys' time when they speak to each other.
THE WITNESS: If they had such a policy. But there were also instances where both of them did.
BY MR. GIUFFRA:
Q This is an issue you have not looked at?
A I have not looked at that issue.
Q We have gone through the issue of the conflicts between the billing statements and Ward's statements to you, the IG. Do you recall that? You are aware that there are some conflicts; correct?
A Mr. Ward contends he did not talk to Mrs. Clinton in connection with IDC at all, and we have several instances in which Mrs. Clinton billed.
Q You have 15 conferences?
A Fifteen.
Q So that is one issue. And there is the

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question of whether Rose was representing Madison and Ward in connection with the IDC transaction.
A That I guess is a question. Rose has contended it did not, and I believe Mrs. Clinton has contended that she did not, and she billed Madison.
Q And one of the potential conflict issues with regard to Rose is the extent to which Rose's own conduct with regard to IDC might be called into question in the Frost litigation; right?
A Yes.
Q That's because of the fact that the Ward loans -- the question whether they should be included in the damage list?
A That and the initial acquisition of the IDC property and subsequent disposition of parcels of that property.
Q And the billing records become significant because they indicate the additional contacts between Rose and Mr. Ward and also the involvement of Ward in the drafting of the option agreement?
A Both of those are significant facts of the report.

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Q Are there any other facts?
A It indicates -- well, we talked earlier not on IDC but on the -- not directly on IDC. It dealt with matter number 2, the knowledge of a 6 percent --
Q The fact that the partner was aware of the limitation?
A Correct.
Q That would be relevant to whether the -- to the question of whether the acquisition was structured in a way to circumvent the 6 percent limitation?
A Whether Rose was aware of it.
Q Which might be an issue in the Frost case?
A Yes.
Q Because Frost could then say well, your attorneys knew about this and therefore it didn't really matter what we did in the audit?
A That is correct.
Q It was almost a direct conflict?
A Yes.
Q An actual conflict. Can you say that or not, as your lawyer whispers in your ear?

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A Pillsbury, Madison looked at that in their Frost report. They found it an actual conflict. I have no reason to disagree.
Q What happens is these records increase and strengthen the finding of an actual conflict?
A It would appear so.
Q Bates number RS 2826 to 2828 I show you. Have you seen this before?
(Witness examined the document.)
It is a memo from David Williams to Vincent Foster re: A possible FSLIC representation by Rose.
A Yes, I have seen not this physical document but we got a copy of this memorandum during the course -- from Rose during the course of our investigation. It may not have been redacted.
Q There is an indication here, at least on page 3, that Madison may have generated $40,000 in annual fees to Rose. Do you recall seeing that?
A Yes, I do.
Q Was that reported in your report, that fact?
A I don't believe we focused on that fact.

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Q As you sit here today, do you think this is a relevant fact with regard to the conflicts examination?
A I don't know where that figure came from, and I think that's why we didn't focus on it. It did not seem to be consistent with other documents that we had seen. I guess that's why we didn't focus on it.
Q You have seen -- RLF 203030 to 31. This is the final recap. You have seen that before; right?
A Yes.
Q The billing records allow you to -- this document was a way of determining how fee credits had been allocated among various Rose lawyers; correct?
A That's our understanding.
Q The billing records allow you to determine what work was done by these Rose lawyers in order to justify the fee credits?
A Yes.
Q So, for example, in January of '86 you have Mrs. Clinton at 2731.25 billed to stock offering on IDC, and the billing records allow you to see what

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work at least in part she performed in order to support that fee?
A That is correct. If I can go back to a previous answer where we were talking about the amount, I don't think our investigation focused particularly heavily at all on a dollar amount. It wasn't just that that document was different than some of the others we had seen. We were looking at the work that was done.
Q The work was more important than the amount. The dollar amount becomes important to determine the extent of the work?
A Yes. A raw dollar figure like that doesn't do a lot.
Q It is not very helpful?
A Not very helpful.
Q But the billing records you would agree are very helpful --
A Yes.
Q -- in determining what Rose did or didn't do?
A Yes, because it has a description of the

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services and the matters and so forth.
Q Are you familiar with the role of a buyer's attorney in a real estate deal?
A I am not a real estate attorney.
Q But you at least -- if Rose had some potential liability, for example, with regard to how it handled the closing of the IDC transaction, that might be relevant to a conflicts analysis?
A Yes.
Q Did you make any determination to see whether -- strike that.
Should an attorney in handling a closing of a real estate transaction on behalf of a buyer attempt to ascertain whether that transaction is in compliance with state law, federal law?
MR. PORTNOY: She just testified that that is outside her area of expertise.
MR. GIUFFRA: It becomes relevant to the conflicts analysis. She just said it was relevant to the conflicts analysis.
THE WITNESS: We attempted to ascertain what Mr. Thrash did. His memory was very vague.

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BY MR. GIUFFRA:
Q Did you attempt at any time to ascertain what he should have done?
A I think our view was that we would leave that to RTC legal.
Q So you didn't make any -- wouldn't what he did or what he should have done be relevant to the conflicts analysis?
A We did not undertake a legal analysis of what he should have done. I would expect RTC to do that. That really goes more to an issue of liability and defenses to it, and that study is being done by Pillsbury, Madison.
Q Wouldn't one of the claims potentially that Frost would make in the litigation of RTC be at least in connection with the IDC transaction, it was the Rose Law Firm that was down on the job, not Frost?
A That was a possible defense.
Q So the failure of the Rose Law Firm to see to it that Madison was acting in compliance with the direct investment rule potentially contributed to the loss that was suffered by Madison and also the

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damages that would be suffered by --
A That is an argument that Frost could make. In terms of our reporting for a conflict analysis, all we needed to do was identify that that was a possible argument. As to whether or not it was going to be successful, I would defer to RTC.
Q I'm not interested in whether it would be successful.
A We identified it as a possible argument.
Q What would be the possible argument Frost could make in the litigation with the RTC with regard to the failure of Rose to see to it that Madison complied with the direct investment rule?
A Frost in fact did argue that the insiders in Madison were going to do what they wanted to do regardless of what Frost might have said in its reports and that therefore what it did was irrelevant. We were aware of that.
To the extent that the firm which was prosecuting that claim for the RTC was involved in any of those transactions, knowingly or otherwise, that was a matter that we considered subject to

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disclosure, required disclosure by Rose.
Q And the reason why it was subject to required disclosure by Rose?
A The ethical rules applying to an attorney indicate that where an attorney's own conduct could be called into question in a case, that raises the issue of a conflict, and RTC's -- that was a potential in this case, and RTC's rules require all potential conflicts to be disclosed.
Q The potential --
MR. PORTNOY: I want to clarify. What the potential issue is that you are identifying, is --
THE WITNESS: That the attorney's own conduct could be called into question.
MR. PORTNOY: But the conduct in question is not that Rose somehow affirmatively failed in misconduct but rather failed to prevent misconduct by insiders?
MR. GIUFFRA: It could be both.
THE WITNESS: It could be either.
MR. PORTNOY: That's what I'm asking.
BY MR. GIUFFRA:

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Q On the one hand, the failure to disclose could be the fact that Rose was involved in these transactions that were fraudulent insider transactions. That's one issue.
A Yes.
Q The second issue would be that Rose acted negligently and failed to see to it that Madison and Madison Financial adhered to the direct investment law?
A Those were arguments which could have been raised by Frost. It doesn't mean that they would have been successfully raised by Frost. We did not need to reach that evaluation.
MR. PORTNOY: That is Pillsbury's job to evaluate that?
THE WITNESS: Yes.
BY MR. GIUFFRA:
Q The argument that could be made, at least with regard to the Frost representation, that because Rose had this conflict where its own conduct might be at issue, they did not aggressively prosecute the case against Frost?

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A The purpose of the model rules which are in place in Arkansas are to make sure that an attorney does vigorously, zealously prosecute the interests of his client and --
Q If the defense is going to be that the attorney's own conduct caused the loss, the attorney might not prosecute the case as aggressively?
A That would be the concern, and the concern the model rules address.
Q This is RS 749 to 769. Please take a look at that.
(Witness examined the document.)
Have you ever seen this document before? This is a memo from Foster to all attorneys at the Rose Law Firm regarding FSLIC representation. Have you seen this?
A I believe we have.
Q If I could direct your attention to page 768, this was in terms of Madison perhaps getting involved in representing the FSLIC with regard to possible claims against directors and officers of the thrift.

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A Yes.
Q So, if a Rose lawyer was involved in a business relationship -- strike that. If a partner was in an investment with, for example, the McDougals, that would have been something that the Rose partners should have disclosed in response to this memo?
MR. PORTNOY: Does the witness have any expertise in interpreting internal law firm documents? This is a letter I believe you said --
MR. GIUFFRA: If she doesn't have expertise, she will tell us. She has done that throughout the day.
THE WITNESS: I don't think the question went to the interpretation of the documents but rather whether it was reportable.
MR. PORTNOY: I'm sorry. Whether what was reportable?
THE WITNESS: The relationship he hypothesized, which was a business relationship with someone listed on a FSLIC conflicts list.
MR. GIUFFRA: Off the record.

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(Discussion off the record.)
THE WITNESS: My problem is I don't know what FSLIC's requirements were in terms of disclosure for individuals listed on their conflicts list, and this is a FSLIC conflicts list. I am somewhat hard-pressed to answer that question. I just don't know what their requirements were.
BY MR. GIUFFRA:
Q Would this have been something that would have been reportable under the RTC's requirements subsequent to November 1, '88?
A I think it would have depended on what the relationship was. Sometimes RTC would send out a list saying report any representation of. So, it would depend on that the specifics.
Q Have you reviewed the transcript of the Ward versus Madison case?
A Yes, I have.
Q Is there any mention of Mrs. Clinton in that transcript?
A There is not.
Q In 1988, you would agree that --

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A Oddly enough, the copy I have happens to be missing one page. Given what was being discussed, I don't think it likely that that would have come up there, but I am missing one page.
Q In 1988, there was at least the Ward versus Madison case, correct, that was pending?
A Yes. RTC was not yet a party to that until '89.
Q Madison had been taken over by FSLIC?
A FDIC and then RTC substituted shortly thereafter.
Q FDIC took over in what year?
A '89, February.
Q So, do you have any knowledge with regard to how long lawyers normally maintain documents regarding representations of S&Ls, client files?
A No, I don't.
Q It is not a subject you are familiar with?
A No.
MR. GIUFFRA: I don't have any further questions. Thank you very much.
MR. GIBSON: Off the record.

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(Recess.)
EXAMINATION
BY MR. PORTNOY:
Q I think in candor I have to say good evening.
A Yes, it is approaching that time.
Q My name is Jim Portnoy. We have done this before, but I will just repeat for the record that I will be asking a few questions for the Minority. With me is Paul Weech, also of the Minority staff on the Banking Committee.
When you were asked to first review the Rose Law Firm's representation of the RTC, what was the specific task that you were asked to undertake?
A We undertook an investigation into possible conflicts by the Rose Law Firm in its representation with respect -- with respect to its representation of the RTC and initially the FDIC when the FDIC first began acting as receiver, conservator for savings and loans.
Q Were you asked to essentially compile a documentary record?

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A We were asked to investigate it. That's the extent of what we were asked to do. Our ordinary method of investigation is to go out and uncover the facts through interviews, through document production, and then we compile a report which recites those facts and attaches the support for the recitation of facts, the write-ups of interviews or transcripts if they are transcribed, the statements and the documents that we find.

Q Were you asked to reach any conclusions with respect to the facts that you developed?

A No, we were not.

Q In your view, did you reach any conclusions with respect to the facts that you developed?

A We reported the facts. We did not reach any conclusion as to, for example, whether a given set of facts constituted an actual conflict or a potential conflict. We did reach the conclusion that sets of facts which we found constituted actual or potential conflicts in a certain number of cases.

Q And you then reported that information to whom?

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A The report was issued to Mr. Ryan, who was then CEO of the RTC.

Q It was Mr. Ryan's job or the RTC's job to determine what use, if any, to make of the findings in your investigation?

A That is correct. We issued the report with a transmittal letter which suggested that RTC do certain things, that Mr. Ryan do certain things, which were to refer our report to the legal division for review in determining whether actual or potential conflicts existed and what to do, if anything, about that.

We also in this instance suggested that our report be referred to RTC's outside counsel, which we knew then to be investigating questions of liability concerning the Rose Law Firm, and although our investigation was a conflicts investigation, inevitably it disclosed facts which we believed would be of interest to the outside counsel as well.

Q To your knowledge, were your recommendations followed?

A Yes, they were.

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Q So, your report was referred to the outside counsel?
A Yes, it was.
Q And that was Pillsbury, Madison?
A Yes.
Q What is your understanding of Pillsbury, Madison's responsibility with respect to the material that you provided to them?
A Pillsbury, Madison issued a report in connection with the Frost & Company litigation. That report did a couple of things. One, it determined -- it reviewed the matter of whether the facts that we had found presumably in connection with anything they knew of as well, but it relied very heavily on our report, gave rise to any liability in connection with Rose's litigation of the Frost lawsuit. They reviewed the conflicts issues as well.
Q It was outside counsel, Pillsbury, Madison's responsibility to make recommendations and determinations as to whether any further action should be taken based upon the information that you developed?

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A I don't know what their agreement with RTC was, but they issued a report which did not recommend pursuing any monetary recovery with regard to Rose's representation on the Frost litigation, and that report also said that they found three instances of direct conflicts from the facts that we reported and one instance of a potential conflict, all of which should have been reported to the RTC.
Q Did you have any reason to take issue with either Pillsbury's findings or its recommendations as to how the RTC should proceed?
A I think we considered that their decision and not our role.
Q You have looked at reports?
A Yes, we did, and we looked at it to see whether they had considered what we put before them, and they had.
Q In your view, they had considered what you put before them?
A Yes.
Q They conducted some additional investigation also, didn't they?

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A Yes, they did. There were interviews conducted in addition to the ones that we had conducted, probably interrogatories. There was additional work performed by them, yes.
Q It would be fair to say that Pillsbury had before it, in reaching its conclusions, the full range of information that you developed and even some additional information?
A That is correct.
Q And it was their job based on that determination to recommend whether the RTC take any further action or not?
A That is correct, particularly as regards the liability issue. I don't know that they made recommendations on the conflicts issue. They simply found conflicts.
Q And then decided whether based upon that finding it would be in the interest of the RTC to take any further action?
A It was more oriented toward whether it would be in the interest of RTC to pursue a lawsuit against them, against Rose, and they found not.

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There are other actions, obviously, which can be taken that they did not address.
Q Did you view your role with respect to the billing records at that time we have been discussing here today as a continuation of the same?
A Yes, with the addition of saying how it would have impacted our report. That's a little bit of a different twist.
Q You began reviewing the new records at the request of the Chairman; is that correct?
A Yes.
Q Did you also receive a request internally?
A No.
Q So, as a formal matter, the impetus for your review of the records was Chairman D'Amato's request?
A That is correct. The IGs regularly undertake work at the request of Congress, if that work is within their jurisdiction. They might undertake work at the request of people within the agencies, undertake work on our own initiative, at the request of a citizen. There are various means,

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all of which are perfectly appropriate.
Q With respect to the billing records, could you please explain the process by which your office reviewed them, what you did, what others did, what you viewed the request you were answering to be.
A We received the records from the committee, and I reviewed those records in connection with what we had done before. I hasten to point out that our review is not complete. We do not have a work product. We are not finished with our analysis yet. So this is a work in progress.
Q Do you have a draft report in existence?
A No, we do not.
Q Do you have a sense of when that might come into existence?
A No, I do not. I reviewed the billing records. Both the auditor and the investigator who worked on the case reviewed them, the chief auditor and the investigator. Various other people within the office who had been involved with the case also reviewed the records. I was looking at it from the standpoint of the impact the additional information

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might have had on our report.
MR. GIBSON: Can I go off the record?
(Discussion off the record.)
BY MR. PORTNOY:
Q You didn't conduct the interviews, did you?
A No, I did not.
Q You reviewed the interview, either transcripts or statements?
A That is correct.
Q Did you draft the report?
A I drafted portions of the summary in volume I. I was certainly involved in the editing process of the entire report.
Q Is there someone you would describe as the principal author?
A Of the report?
Q Yes.
A We had various agents who authored different segments of it.
Q Your job was to bring it into a coherent whole?
A Pull it together, yes.

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Q To the extent anything of this many volumes can ever be coherent.

You have changed jobs since this report was prepared?

A Yes. I was counsel to the RTC Inspector General at the time this report was prepared. The RTC no longer exists, and I was an FDIC employee with fallback rights to the FDIC. I am now with the FDIC IG's office as an assistant IG.

Q Would this kind of report still be within your normal duties?

A Yes. The FDIC IG is successor in interest to the RTC IG, and as far as ongoing RTC work, that work is handled by the people who were working on it before. So, I have a lot of ongoing RTC work where my duties remain the same as they were on December 31st.

Q Earlier you provided us with a document that has been captioned Exhibit 3, and it is a chronology of events.

A Yes. Someone made off with my copy, so I don't have it anymore.

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Q Allow me to lend you mine. Did you prepare this?

A Yes, I did.

Q Did anybody else assist in its preparation?

A I sat and typed it myself at my own computer.

Q Do you recognize the font?

A And the abbreviations.

Q Did you prepare for your testimony by speaking with anyone else?

A I spoke with counsel concerning my testimony.

Q Aside from counsel?

A No. Obviously we are talking in the office because our report is an ongoing report, and one cannot do a report in a vacuum. So to the extent that my testimony reflects the report, the work that we are doing to generate that, then of course I have talked to a lot of other people.

Q The last time we were across this table, there had been a meeting to compare recollections and try to nail down some dates.

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A No similar meeting occurred in this case. I met, as I said, with counsel on the substance of my testimony. Both Mr. Switzer and I met jointly with counsel for counsel to go over the rules of the deposition, but not the substance of our testimony at all. He met separately with us on that.

Q The Minority certainly recognizes the propriety of joint representation.

A Having gotten to answer about 20 minutes of questions about that the last time, I didn't want to do so this time.

Q In the course of your responsibilities with the preparation of the initial report and again the review of the billing records, did you provide legal advice --

A Yes.

Q -- concerning legal ethics?

A I provided advice concerning the ethical requirements applicable to lawyers, both through the model rules which govern us and with regard to the applicability of RTC's and FDIC's own specific rules, which are over and above the model rules.

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Q Have you had any particularized training with respect to the model rules?

A The typical training that all lawyers receive.

Q Anything in addition to that?

A No.

Q Did you receive any particularized training in the RTC's rules?

A Particularized training, no. I worked with them regularly, because we have long conducted audits of legal services and a conflicts check is always a part of that.

Q You were asked by Mr. Giuffra about the scope of your document requests or subpoenas to the Rose Law Firm and other parties.

A Yes.

Q I believe you testified that you sent a subpoena or the agency sent a subpoena to the Rose Law Firm in March of 1994?

A Yes.

Q It was your view that these billing records would have been covered by that subpoena?

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A Yes.
Q Do you have any reason to believe that the Rose Law Firm had possession of the billing records at that time?
A The Rose Law Firm has consistently told us that it did not have those records.
Q Do you have any reason to doubt what they have told you?
A There have been several documents which were not produced pursuant to our subpoena which have subsequently, after the close of our investigation, been found by Rose, and their counsel has produced those to us intermittently.
I recognize that there are large volumes of documents through which they have had to go, and that sometimes things have not been found in that process. That is clear they have produced them to us subsequent to our investigation.
I have no particularized reason to believe that these particular records might exist.
Q Do you have any reason to believe that any documents were affirmatively withheld from you?

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A No.
Q Is it normal in the course of an investigation for documents that were overlooked in the past to show up?
A Not normal, no. We normally get the documents we ask for at the time. That's the normal course.
Q Have you ever before conducted an investigation that took this long?
A Yes, we have.
Q Would you say that the scope of this investigation was fairly broad?
A I don't know if the scope was broad. The scope was fairly specific, to review and to investigate conflicts, actual or potential conflicts that the Rose Law Firm may have had in connection with its representation of the RTC. The Rose Law Firm had represented the RTC on Madison, which we have discussed, and another 16 institutions, I believe. So there were a lot of records to go through.
The scope was relatively narrow. The

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volume of documents was relatively large.
Q Your report, I believe, was divided into four or five volumes, each of which has a number of sub volumes?
A That is correct.
Q And the ultimate documentation probably consumes 25 or 30 bound volumes, including the report?
A Probably close -- I want to say 40. It is very large. It is a large report.
Q Turning back to the subpoena, your recollection was that the subpoena called for documents in the custody or control of the Rose Law Firm?
A The subpoena was directed to the Rose Law Firm and ordered them to produce documents. I cannot give you the precise language. I think it fairly clearly in the course of any subpoena, one cannot just put documents somewhere else and say now I don't have them anymore. If they are in the legal custody or control of an entity, they should be produced.
Q Certainly, but documents can leave the

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custody and control of somebody before a subpoena is served for perfectly innocent reasons?
A Correct.
MR. GIBSON: I want to clarify for the record and be certain we are talking about the March 15, 1994 subpoena that was issued by the RTC Inspector General. We have talked about a lot of subpoenas in here today, but we are now talking about the RTC IG's subpoena?
MR. PORTNOY: That was my understanding.
THE WITNESS: Yes.
BY MR. PORTNOY:
Q Have you ever specifically requested documents from former partners of a law firm?
A I cannot recall having done so. I don't believe -- if you are asking have we ever issued a subpoena to a former partner of a law firm, I do not believe that the RTC IG has ever done that. It does not mean that we could not.
Q You were asked a broad range of questions about the billing records, and you were asked a number of times whether you considered information in

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the records to be important.
A Yes. "Significant" I think was the term that was used typically.
Q "Significant" or "important" were both used at varying times, and you described a great deal of the information in the billing records as important.
A Yes.
Q I believe you probably went nearly so far as to say virtually everything in the billing records is either important or significant.
A Well, I don't know about virtually everything. There is a great deal of information which falls into that category.
Q What did you mean when you said that the information was important or significant?
A Again, remembering what our initial charter and our current charter both have been, it was to review and to investigate potential conflicts, actual and potential conflicts that the Rose Law Firm may have had. Conflicts arise because of past representation or interest in a matter.
The information in the billing records

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gives substantial detail on Rose's prior representation of Madison Guaranty. That is highly relevant to a conflicts analysis of their subsequent representation of the RTC in trying to recover moneys on behalf of the failed institution, Madison Guaranty.
Q And that was the conflicts analysis that was performed by Pillsbury, Madison?
A Pillsbury, Madison looked at it. I believe RTC did too. It has a conflicts committee that looked at it.
Q Would it be fair to say that when you described information as important or significant, that you meant that it was information that the RTC or Pillsbury, Madison would want to know?
A It is information -- I was looking more at our report. We have to make judgments about what goes in our report, obviously. In any kind of an investigative report, this is information that we would have deemed --
Q You have used the word "reportable."
A Well, I mostly used the word "reportable"

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in saying that it was disclosable to RTC, I thought, but that it would have been reportable in our report, yes.

Q If you had the information, you would have included it?

A Yes.

Q You didn't mean to suggest, did you, that the fact that you would have included that information necessarily led to any conclusion?

A No. Our report did not reach conclusions. We did not -- it did reach conclusions insofar as we ascertained that there were actual or potential conflicts with regard to seven institutions. Madison was one of them. It did not reach the conclusion that a given piece of evidence indicated a conflict or that a given conflict was an actual versus a potential conflict. That we left to the RTC.

Q Were there any additional conflicts that you believe may have existed, either actual or potential, as a result of your review of the billing records?

A There is certainly additional aspects.

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Whether it is a whole additional conflict, I don't know. The representation on IDC was different than we thought and more extensive.

Q Was it your view that the representation of IDC might have created an actual or potential conflict?

A Our view was only as to the initial closing. That is pretty much what we looked at. We found that that was something which should have been disclosed to the RTC. We did not know about the subsequent representation in the subsequent transactions. I'm referring to the May 1 option agreement. I think that is a separate problem.

Q Are you aware that Pillsbury, Madison looked at the potential conflict issues arising out of the May 1 option?

A They had not, as of the report that I saw. They certainly didn't from our report, because we didn't know about it. Wait a minute. Let me back up.

The report that I saw that they did said we have this option, we don't know what it means and we

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are holding it open to look at that more. That is my understanding where they still were.

Q Would it be fair to say that the billing records with respect to the May 1st option disclose that the Rose Law Firm worked for, I believe it was two hours on the option, all told?

A I don't know that that is -- I would have to go back to the record. I believe that is correct with regard to the line that says "draft option agreement." There were several other phone calls which may well be related, but the substance of those conversations are not described.

One of those conversations occurs between Mrs. Clinton, Ward and a guy named Schafley, who is identified elsewhere as Ward's personal accountant. Those may well be related. But because we don't know the substance of those conversations, we cannot say for certain that they are.

Q Based on your review of the billing records, what can you say about the Rose Law Firm's representation of Madison Guaranty with respect to the May 1st option?

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A We know that they drafted it, that it was drafted by the Rose Law Firm, which we did not know before. There appear to have been conversations, telephone conferences which related to it. And that's about the extent of what we can say.

Q So if Pillsbury, Madison had analyzed the May 1st option based on the assumption that the Rose Law Firm had drafted it, would it be your view that the billing records add any material information that would have been pertinent to their analysis?

A Well, you have to remember that we are looking at the billing -- the question we were asked was about the billing records, how would they have impacted our investigation. I believe I responded before that it is difficult to go back and say how would you have investigated differently had you known this, almost as difficult as to go back and redo the case. Questions definitely would arise from these billing records that were not asked.

So, I don't think you can in a vacuum say what impact would just this record have. We might have -- we would have asked other questions. We

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would have used these records to try to refresh the recollection of witnesses. We would have pursued other documents had we known about them. Therefore, our report would have been affected.

Q Would it be fair to say that the single most material fact with respect to the May 1st option that you learned as a result of your review of the billing records was that the Rose Law Firm participated in drafting it?

A Without getting into -- I am somewhat uncomfortable with "single most important," "most critical," the same problem I had earlier when the Majority was questioning me.

It is an important fact, but you also have to see that in relation to what happened later, the litigation, the impact of that fact and some others that are reflected in the billing memo.

Q You also were asked about litigation with the Rose Law Firm concerning a subpoena for a list of client names.

A Yes.

Q And you indicated that after a series of

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motions and actions, eventually the subpoena was enforced?

A That's correct.

Q Was it enforced without restriction?

A Yes, it was. We voluntarily entered into a confidentiality undertaking where we agreed in writing to hold that information extremely confidential. We indicated in that confidentiality agreement that we would not agree to hold it confidential from the Department of Justice, from the Independent Counsel. We would not agree to hold any hits, if you will, names which did appear to be a conflict confidential.

But we spelled out exactly how we intended to use that information. We did that voluntarily, and the court looked at that and said that the court could draft in more effective protection than we had offered. The court expected us to abide by our word. We would have done that anyway, of course.

Q At what point in the process did you propose to implement confidentiality restrictions?

A We had a confidentiality restriction that

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we offered at the outset. During the course of the litigation, the court expressed concern in particular that we did not restrict use or free access to that list to other federal agencies, and we addressed that concern in the final confidentiality agreement.

The court also expressed concern about maintaining the list in perpetuity, if you will, in a government file somewhere, and we considered that and ultimately concluded that we did not need to do that.

We agreed that when we finished with the list, we would turn the list over to the court itself for safekeeping.

Those were issues that we did not have that much trouble resolving. The primary contention was that Rose did not want us to have that list at all. They wanted to maintain custody of it themselves. We would have had to go in and ask for it. We could not take it with us to do on-site work with the records. Rose also did not want to allow us to disclose it to anyone else. We felt that under the IG Act, we had an obligation to disclose it, anything to the

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Independent Counsel that might be needed. So, those were significant areas of contention.

There was a third area of contention, off the top of my head, I can't recall. But those were significant areas of contention that persisted through the final day of litigation.

Q Would it be fair to say, though, that the subpoena when it was enforced was subject to greater restrictions than it was when you first issued it, that the use of the information was subject of greater restrictions than when you first issued the subpoena?

A I would say that we agreed to put additional safeguards on the use of that information. But we were very unrestricted in our ability to use it. A very critical point was we felt we had to physically have custody of that list in order to do our work. Otherwise, if we have to go ahead and say hey, can we see page 32 of the list, obviously the subject of the investigation knows precisely what we are doing. That is not an appropriate investigative technique.

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Q Was it the Rose Law Firm which first raised concerns about your perceived lack of safeguards on the use of the information?
A We were sensitive from the outset to the fact that this was -- while we did not consider it privileged information, nor did the court, that it was sensitive information, if you will, and we told them from the outset that we would hold it extremely confidentially.
Q I guess my specific question was whether they first raised concerns about the lack of safeguards.
A What I'm saying is we knew there had to be safeguards from the outset.
Q But the safeguards that were ultimately implemented were greater than the ones that you initially suggested?
A Yes. We responded there to the court, the court's concerns.
Q Were those concerns brought to the court's attention by counsel for the Rose Law Firm? I presume you didn't.

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A Actually, I don't -- the question of maintaining in perpetuity, I believe the court raised on its own. The concern about dissemination or access by the federal agencies I believe was in fact raised by Rose counsel. The other concerns that were raised by Rose counsel we simply could not abide by. And the court found that we did not have to abide by them.
MR. GIBSON: Before we move on, let me ask a couple questions of the witness on this subject.
MR. PORTNOY: Please do.
MR. GIBSON: Pat, did the court deny access to any of the information that was requested under the subpoena?
THE WITNESS: It did not. It granted us access to all of the information.
MR. GIBSON: And during the course of the motions in this case, did the Rose Law Firm request a protective order?
THE WITNESS: Yes, it did.
MR. GIBSON: What was the court's action with respect to that protective order?

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THE WITNESS: The court did not impose a protective order.

MR. GIBSON: Jim, that's all I have for now. Thank you.

THE WITNESS: I might add that in the litigation of the case, if you are concerned about what Rose did or did not agree to, what was or was not of concern, Rose opposed granting us access to this information under our confidentiality undertaking. It opposed it vigorously.

BY MR. PORTNOY:

Q Under the confidentiality undertaking that ultimately was imposed?

A Yes, sir, was agreed to. And the court granted us access under that. Yes, they opposed it to the very end and said that it would be an absolutely unacceptable resolution of the case to them.

Q You were asked at some length about the direct investment rule.

A Yes.

Q I believe you were shown billing records

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which indicate that Mrs. Clinton reviewed a memorandum which mentioned the direct investment rule.

A The amendments to the agreement. There was a letter I believe by Mr. Massey that was involved, a June 17 letter.

Q Is that the June 17 billing entry by Mrs. Clinton that reads "review of application amendments"?

A Yes.

Q Did you find any other evidence to suggest that Mrs. Clinton had knowledge of the direct investment rule?

A There were -- during the time when Mr. Massey was researching this, there were conferences back and forth between Mr. Massey and Mrs. Clinton that might suggest that he was discussing the subject of his -- the subject of his research with his superior within the law firm. But I do not know that for a fact. It suggests, but the description is insufficiently precise to establish that.

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Q So there is nothing else in the records that directly suggests that Mrs. Clinton had knowledge of the direct investment rule?

A Again, I think it suggests. It does not establish. Also not in the billing records, but there is a June 10, 1985 letter from Mr. Massey which responds to -- it is July 10, 1985 letter responding to a June 18, '85 memo from Mr. Handley, which again goes into the direct investment and prior supervisory agent approval. On that letter, the final paragraph is "should you have questions, please call Hillary Rodham Clinton," and a number.

Q I believe you testified earlier that that was the federal direct investment rule rather than the state direct investment rule?

A That particular letter addressed the federal direct investment rule and the prior supervisory agent approval, which was also a federal requirement.

There is a reference in numbered item 2 in that letter which goes to the assets held by the institution. That appears to be responsive to

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numbered item 2 in Mr. Handley's June 18 memorandum. The reason the total assets become important are that the 6 percent rule is 6 percent total assets. So, he was again addressing that. And Mr. Handley specifies the 6 percent limitation.

So, the July 10 letter goes both to the 6 percent rule in numbered item 2 and the federal direct investment rule as well as prior supervisory approval in item 3. It addresses both of them. There are no attendant billing entries that I could identify with the July 10 letter.

Q There are no billing entries that indicate to you that Mrs. Clinton actually reviewed these documents?

A There are no billing entries that indicate that. She is referenced in the letter as being someone to contact if they have questions about the letter.

Q Do you have any evidence that she was in fact contacted to discuss the letter or its contents?

A No, I don't.

Q So, it would be fair to say that there is a

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letter that makes reference to the direct investment rule written by Mr. Massey and referencing a memorandum by Mr. Handley but there is no evidence that Mrs. Clinton ever actually saw those documents?

A Well, the letter also references Mrs. Clinton. The billing records do not contain an entry regarding that.

MR. BARTOLOMUCCI: Is it safe to assume that Mr. Massey wouldn't have said you can call Hillary Rodham Clinton if she had no knowledge of the substance of the letter?

THE WITNESS: I guess you would have to ask Mr. Massey that.

MR. BARTOLOMUCCI: Is that the reason why you flagged this letter as perhaps indicating some knowledge on her part of the direct investment rule, because of that very inference that I was drawing?

THE WITNESS: Yes.

BY MR. PORTNOY:

Q But to return to the subject of actual statements on the billing record, the only statement in the billing record that we can identify that

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indicates to us or states, establishes that Mrs. Clinton may have reviewed a document that discusses the direct investment rule is the June 17 entry on DKSN 028960?

A That is an entry -- let me make sure I have the right one. The review of application amendment is an entry which appears to bear directly on that. I believe that the conversations are also -- the conversations which occurred during the course of Mr. Massey's research into this issue are also relevant. They are not directly tied.

Q Again, my question was based on the billing records, the only entry that to your mind establishes knowledge as opposed to raising questions about knowledge is this one, the June 17th entry?

A I'm not quite comfortable saying it establishes knowledge. It establishes that the review was done.

Q That brings me to my next question, because the June 17th letter which I believe you actually provided to us?

A Yes, I did.

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Q That has 11 entries, does it not, 11 numbered entries?
A Yes. It is a page and a half roughly letter with 11 numbered paragraphs and two unnumbered paragraphs.
Q And the billing entry indicates that Mrs. Clinton spent .3 hours, or 18 minutes, reviewing this document?
A Yes.
Q And it is 11 numbered entries?
A That is correct.
Q So, if we were to simply assume that she spent an equal amount of time on each entry, she spent about a minute and a half total?
A The entries are not equal, but your point is she only spent 18 minutes reviewing it, billed 18 minutes for reviewing it, and that's correct, certainly. I think also in fairness I need to point out that I have seen an unsigned version of Mrs. Clinton's responses to Pillsbury's interrogatories where she was asked about her knowledge of the 6 percent investment limitation, and

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her response was that although she cannot recall everything that has ever happened in her career, she was not a securities lawyer and she does not recall being aware of this.
Q You were also asked about the Rose Law Firm's involvement in the preferred stock offering and the broker-dealer application.
A Yes.
Q When you did your conflicts review, you were aware, were you not, that the Rose Law Firm had been involved in representation of Madison Guaranty with respect to these regulatory matters?
A Yes. We were told that it was a brief and very narrow representation on two narrow regulatory issues, I believe was the phrase used.
Q And you have not concluded either way that the description provided was somehow inconsistent with the billing records or consistent?
A Again, we provide facts.
Q That was my point, that you would have provided the fact-finder with the information that the billing records contained, but it is not your

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role as you see it to conclude whether that information was consistent or inconsistent with the representations that were made?

A That's correct.

Q In light of the fact that you were aware that the Rose Law Firm was involved in representation of Madison with respect to the preferred stock broker-dealer, would it be fair to say that the billing records add detail and nuance but don't bring to you an entirely new subject?

A They do not bring an entirely new subject. Certainly when one is analyzing conflicts, as I said earlier, the precise nature of the work being done is a highly relevant area.

Q You also testified at some length about the September 24th, 1985 letter agreement between Mr. Ward and Mr. McDougal.

A Yes, both the one that was apparently executed on September 24th and the one which was backdated.

Q Do you have any information as to who might have drafted those agreements?

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A The only information that we have is a statement from Mr. Hubbell's secretary where she says that she believes that she may have been the typist of that agreement.

Q Are you aware of any testimony from Mr. Ward on the subject?

A I suspect that you are going to show me some. I can't recall. Certainly in our interview with Mr. Ward, he didn't recall much. To the extent -- I believe he didn't recall who drafted it. I believe that's what he told us. I can go back and look at his interview and see if that is the case.

Q Did Mr. Ward testify in the case of Ward versus Madison?

A Yes, he did.

Q Do you recall whether he was asked about this subject?

A I cannot remember. I have read the testimony, but I can't remember that. Did he?

MR. PORTNOY: Off the record.

(Discussion off the record.)

BY MR. PORTNOY:

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Q You have no evidence as to who actually drafted the letter, do you?
A Other than that one statement which -- when you say "evidence of," obviously evidence that might suggest something is one thing. Establishment of proof is something else. We have evidence which suggests that someone within the Rose Law Firm may have drafted it, but that is only one piece of evidence, and we have nothing further.
Q In fact, your evidence is that someone within the Rose Law Firm may have typed it?
A That is correct. I stand corrected.
Q To clarify again with respect to the Rose Law Firm's relationship with Mr. Ward, you stated earlier that you were careful in the way you characterized the relationship between the Rose Law Firm and Mr. Ward with respect to the IDC acquisition.
A Yes.
Q And you were careful not to suggest, as I understood your testimony, that the Rose Law Firm provided legal representation for Mr. Ward?

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A I believe the way we characterized it is that they provided representation for Madison/Ward -- just a moment. I'm going to have to look at it.
Q I believe it is page I-4.
A Madison Guaranty/Madison Financial/Seth Ward in an acquisition of property. I believe that is correct as stated. What I believe you were getting to is whether there was personal representation. Mr. Ward was also an employee of Madison Guaranty -- Madison Financial -- Financial or Guaranty. He was an employee of one or the other.
Q So, the Rose Law Firm could have had extensive dealings with Mr. Ward in his capacity as an employee of Madison without ever engaging in representation of Mr. Ward?
A Personally, yes, sir.
Q To your knowledge, did Mr. Ward ever receive or pay any legal bills for services provided during this period from Madison on this matter?
A To my knowledge, no.
Q Madison Guaranty received legal bills, however?

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A Yes, they did.
Q Would that tend to suggest to you that Madison Guaranty was the client?
A I don't draw conclusions.
MR. GIBSON: Let me take the witness through a question, if I might.
MR. PORTNOY: Please.
MR. GIBSON: Did scope of the investigation conducted by the RTC IG ever include any investigation into the representation of Ward by the Rose Law Firm?
THE WITNESS: No, it did not.
MR. GIBSON: We never investigated whether the Rose Law Firm represented Seth Ward or anybody else; we were looking at a different issue?
THE WITNESS: That is correct.
MR. GIBSON: Thank you.
BY MR. PORTNOY:
Q You testified earlier that in performing your conflicts analysis, the nature of the work performed was of significance to you.
A Yes.

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Q That significance could outweigh any significance accorded to the amount of work performed, couldn't it?
A It could.
Q So, it could in fact make no difference in a conflicts analysis whether the Rose Law Firm worked 10 hours or 20 hours or 30 hours?
A If the law firm was working on a matter in which there is no potential conflict, it wouldn't matter if they worked 150 hours.
Q You testified earlier that there were some matters that you believed should have been disclosed that were not disclosed, and one of those, according to my recollection, is that the Rose Law Firm represented Madison Guaranty on two regulatory issues. That appears not to be consistent with what you just told me. Could you clarify that for me.
A I'm not sure exactly what you are referring to before there.
Q The RTC was aware, was it not, that the Rose Law Firm represented Madison Guaranty on two regulatory issues?

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MR. GIBSON: Could you clarify which regulatory issues you are referring to? I think we are all kind of --

MR. PORTNOY: Wet/dry.

MR. GIBSON: I assume the other one is the Castle Water and Sewer, sale of water by the public utility.

MR. PORTNOY: That's correct.

THE WITNESS: We were certainly aware of that at the time that we wrote our report. I'm trying to remember whether April Breslaw said she was aware of that during the course of their work. I have to go back and look at the report. I can't remember what she said.

BY MR. PORTNOY:

Q You also indicated that the Rose Law Firm did not disclose that it represented Madison Guaranty in the IDC acquisition?

A That is correct.

Q Do you know if they disclosed that to any federal agency?

A No, I don't. The issue that I was looking

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at was whether they disclosed it to the RTC. That was where their duty lay, and they did not do so. When I say RTC, I mean the FDIC's initial work on behalf of the RTC as well, because for the first few months that case was run by the FDIC.

Q We had a lengthy discussion about a series of transactions concerning Mr. Ward beginning with the September 24, 1985 letter and culminating in the Ward v Madison case, I suppose.

A Yes.

Q In particular, the May 1, 1986 option.

A Yes.

Q There is no reason to believe, is there, that Mrs. Clinton played any role in drafting the September 4, 1985 letter?

A I have no evidence one way or another, no, sir.

Q In fact, your only evidence that the Rose Law Firm might have played any role is the secretary's vague recollection that she may have typed it and her recognition that it might be her typewriter font?

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A And that it appeared to be her style of typing, yes.
Q You testified that Mr. Ward and Madison and the person with Mr. Latham then engaged in a number of transactions to permit Ward to receive the benefit of his September 24, 1985 agreement?
A To receive his commissions.
Q Do you have any evidence that the Rose Law Firm had any connection whatsoever to these transactions prior to the May 1 option agreement?
A No.
Q Do you have any reason to believe that the Rose Law Firm even knew about any of these transactions?
A We have no idea what they knew or did not know. There were conversations that went on again between Mrs. Clinton and Mr. Ward during this period of time, but we do not know what the substance of those conversations was and when asked, Mrs. Clinton could not recall.
MR. GIUFFRA: Off the record.
(Discussion off the record.)

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BY MR. PORTNOY:
Q So, based on the evidence before you, the drafting of the option could well have been isolated from all the transactions prior to it?
A That is possible.
Q And in fact, you have no evidence to suggest anything other than it was an isolated event?
A We have no evidence one way or the other, except to the extent that there are phone calls going on at the same period of time. But we don't know what occurred in those conversations. All we know is conversations occurred with the parties.
Q A law firm isn't necessarily disqualified from representing the RTC simply because it previously represented an S&L that goes into receivership or conservatorship, is it?
A No, it is not. It would depend upon the nature of the representation. It is a disclosable fact, but it is not an automatic bar.
MR. BARTOLOMUCCI: By "disclosable," do you mean that it must be disclosed?
THE WITNESS: Yes, under RTC requirements.

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BY MR. PORTNOY:
Q Is it your view that the Rose Law Firm's representation of Madison Guaranty prior to the RTC's stepping in and taking over Madison was adversarial to the RTC?
A Well, the RTC wasn't there, so it wasn't adversarial to the RTC.
Q But is it your view in reverse, that representation of the RTC after having represented Madison would be adversarial?
A To whom?
Q That the two representations would be adversarial.
MR. BARTOLOMUCCI: Can you tell us what you mean by "adversarial"? Is that separate from in conflict?
MR. PORTNOY: Off the record.
(Discussion off the record.)
BY MR. PORTNOY:
Q Once the RTC took over a failed S&L, it stood in the shoes of that S&L for all legal purposes; is that correct?

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A That is correct. Certain defenses which are raisable against the institution are not raisable against the RTC, but yes.
Q So if a law firm represented an S&L and the S&L was then taken over by the RTC, any duty of loyalty that the firm owed to the S&L would now be owed to the RTC?
A That is correct.
Q The acquisition of the IDC property by Madison has been described by Mr. Giuffra and by others as a sham transaction.
A The examiner so described it, yes, a series of sham transactions, I believe.
Q For the moment, directing your attention solely to the acquisition from the Industrial Development Corporation.
A I understood the question to be broader than that.
Q To the extent the acquisition from the Industrial Development Corporation could be characterized as improper, the impropriety involved the division of the property between Madison Guaranty

and Mr. Ward, did it not?
A I don't know that you can sever them entirely. I think the record is pretty clear that the parties went into that initial transaction with every intention of doing the land flips later. That was the whole purpose in buying the property. I'm referring to the intention of the parties.
Q And you are not suggesting any knowledge on the part of counsel?
A That is correct.
Q You have reviewed the closing documents from that transaction, haven't you?
A Some of them.
Q They are included in the appendix to your report?
A Yes, some of them anyway.
Q Is there any indication that you are aware of in those closing documents that Mr. Ward was financing the purchase of the property with a loan from Madison Guaranty?
A I would have to go back and look at the documents. I don't recall that there is, but I would

go back and look at the documents to ensure that my recollection is correct.
Q Do you recall when the transaction closed?
A October 4, 1985.
Q Do you recall when Mr. Ward received his financing from Madison?
A Subsequent to that time.
MR. GIBSON: Off the record, please.
(Discussion off the record.)
THE WITNESS: In follow-up to my prior answer, I cannot recall exactly what we have. I do strongly recall that what we have appears to be incomplete. We have what we got from Beech abstract. The Rose file on the case was lacking.
MR. PORTNOY: Ms. Black, that's all I have. Is there anything you would like to add?
THE WITNESS: No.
MR. BARTOLOMUCCI: I have some follow-up questions which won't take very long, if you want to take a short break before.
MR. GIBSON: Let me suggest we go ahead and keep going. I have a couple questions I would like

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to ask, too. Why don't you go ahead.
EXAMINATION
BY MR. BARTOLOMUCCI:
Q With regard to the value of the newly found billing records and what role they may have played in your investigation, isn't it true that before the discovery of the billing records, you didn't know that the Rose Law Firm had drafted the option of May 1, '86?
A That is correct.
Q And before the discovery of the billing records, you didn't know that Hillary Rodham Clinton had numerous telephone conferences with Seth Ward in connection with the IDC matter?
A That is correct.
Q In fact, isn't it true that Seth Ward had said in his statement that Hillary Rodham Clinton was not involved in that matter?
A That is correct.
MR. PORTNOY: Do the telephone conferences necessarily contradict that?
THE WITNESS: Mrs. Clinton billed for

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talking to Mr. Ward.
BY MR. BARTOLOMUCCI:
Q Before the discovery of the billing records, you didn't know, did you, that Hillary Rodham Clinton had a telephone conference with Daryl Dover, who had represented IDC in that transaction?
A No. Mr. Dover indicated to us that he had not dealt with Mrs. Clinton.
Q That was a fact that we didn't know before the discovery of the billing records?
A That is correct.
Q Before the billing records were discovered, did you know that on the day before the Rose Law Firm had sent a letter to Beverly Bassett, the Arkansas Securities regulator, which later requested approval of stock offering on the part of Madison --
MR. PORTNOY: Chris, Bob went into this on direct.
MR. BARTOLOMUCCI: And you went into it and I'm refocusing it.
BY MR. BARTOLOMUCCI:
Q My question is we know about this telephone

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conference that Mrs. Clinton had with Beverly Bassett. But isn't it true that before the discovery of the records, we didn't know that that telephone conference occurred the day before the Rose Law Firm sent its letter to Mrs. Bassett?

A That is correct.

Q Now, in the course of your investigation, you both reviewed the documentary evidence and conducted interviews of witnesses; isn't that right?

A Correct.

Q And among the witnesses that you interviewed were Rose Law Firm attorneys, both past and present?

A Yes, that's correct.

Q How did you decide who to interview?

A We interviewed those whose knowledge appeared to be most relevant to the issues at hand. We attempted to interview attorneys, several attorneys who were still with the Rose Law Firm about the work that they had done for Madison Guaranty in the past, but Rose denied us access to those, unless -- Rose denied us access to any attorney who

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had not represented the RTC.

Q So that would mean -- that includes Mr. Thrash; right?

A Yes, sir.

Q Who else were you denied access to? That is, who else -- what Rose attorneys were you denied access to other than Mr. Thrash?

A I believe Gary Speed.

MR. GIBSON: Off the record, please.

(Discussion off the record.)

THE WITNESS: Going back on the record, I had indicated that we might not have interviewed Mr. Speed. That is not correct. We did interview him. Rose did make him available. We did not interview Mr. Thrash.

BY MR. BARTOLOMUCCI:

Q It is your testimony with respect to the IDC/Castle Grande matter, the only Rose attorney as to which you were denied access was Mr. Thrash?

A I believe that is correct. Looking at the billing records, there might be others that we would have asked to interview had we known.

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Q Am I correct that you didn't interview Hillary Rodham Clinton?
A We did not.
Q Would you have decided to interview her had you had the billing records?
A I believe we would have.
Q Do you have any plans to interview her in connection with your follow-up work on this matter?
A The RTC has submitted interrogatories which address certainly some of the issues that we would have been interested in getting answers to. We may simply accept those. I don't know yet.
Q Are those RTC interrogatories focused on conflicts issues?
A I don't know about their focus. They relate to them.
MR. PORTNOY: Are those the RTC interrogatories propounded by Pillsbury, Madison & Sutro?
THE WITNESS: Yes.
BY MR. BARTOLOMUCCI:
Q In light of the billing records and what is

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contained in the billing records, do you think that your investigation can be complete and thorough without interviewing Hillary Rodham Clinton?
A We have reopened the investigation in a very narrow sense to look at the impact of these billing records on what we would have done. I don't know how productive it would be to go back and try to redo the investigation.
Q Well, my question was do you think your investigation can be complete and thorough without interviewing Mrs. Clinton.
A What I'm saying is what we would have done had we known at the time to complete our investigation and what we are doing in this more narrow limited review of records which have come to light since then are not necessarily the same thing.
Q So, is it your understanding that you will not interview Mrs. Clinton, that that is a decision that has been made, or is that still an open question at this point?
A I think that is an open question.
Q I believe you testified that the Pillsbury,

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Madison report identified three conflicts in connection with Rose's representation?
A Three actual conflicts.
Q In connection with Rose's representation of Madison?
A Yes, sir.
Q I'm going to read now from Rose's -- that is from Pillsbury, Madison's report called "Report on the Rose Law Firm's conduct of accounting malpractice pertaining to Madison Guaranty." On page 8 of that it says "the Rose Law Firm had a conflict under the Arkansas Model Rules of Professional Conduct in continuing with representation of RTC/FDIC in the Frost case in light of the facts that A, Seth Ward was at that time a current client of the Rose Law Firm, and B, the Rose Law Firm had represented Madison Guaranty and Ward in the acquisition of the Castle Grande property from IDC in which questionable loans had been made to Ward, and C, the Rose Law Firm had in its employment an attorney, Patricia Heritage, a former employee of Madison Guaranty who while at Madison Guaranty may have created minutes of board

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meetings that never took place and who was a potential witness in the Frost case."
Are those the three actual conflicts you had in mind?
A I believe so.
Q Incidentally, that passage I just read says that the Rose Law Firm had represented Madison Guaranty and Ward, that is on page 8 of the report, and on page 5 of the report it says "the Rose Law Firm through Hubbell and others represented Seth Ward."
So, would you agree with me that at least in estimation of Pillsbury, Madison, Rose did in fact represent Seth Ward?
MR. PORTNOY: I am going to object to asking Ms. Black to try and get behind the authors of the Pillsbury report. The report speaks for itself, and the word "represented" can have any number of meetings. As Ms. Black herself has testified, they were quite careful in their use of language, and they did not conclude that there was any such representation.

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MR. BARTOLOMUCCI: Thank you for that.
BY MR. BARTOLOMUCCI:
Q Based upon what I have read, would it be your conclusion that PMS had drawn the conclusion that Rose in fact had represented Seth Ward?
MR. PORTNOY: I would again point out to the witness --
MR. BARTOLOMUCCI: We understand your objection.
MR. PORTNOY: I am not going to --
MR. BARTOLOMUCCI: The witness is entitled to answer it.
MR. PORTNOY: She is also entitled to have the language in front of her.
MR. BARTOLOMUCCI: If she would like it, I will show it to her. "The Rose Law Firm through Hubbell and others represented Seth Ward."
MR. PORTNOY: The witness is perfectly in her rights to decline to respond to a question about what someone else meant when they wrote a document.
MR. BARTOLOMUCCI: I haven't heard her decline to answer.

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BY MR. BARTOLOMUCCI:
Q I would refer you to page 5, to the paragraph numbered 5.
(Witness examined the document.)
A I guess my answer to that is that you are probably better asking Pillsbury what they meant by that.
Q As someone who is familiar with the facts underlying this report, if you were reading page 5, what conclusion would you draw from it?
MR. PORTNOY: This is completely beyond the scope of Ms. Black's expertise and her role in this investigation. It is appropriate to ask her what she meant or what was meant by the RTC Inspector General's report. It is completely inappropriate to ask her what Pillsbury, Madison meant by their report. I believe Ms. Black has already testified that the person to ask was the person who wrote the report.
MR. BARTOLOMUCCI: I'm asking her not what Pillsbury, Madison thought but what she understands this to mean as she reads it.

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MR. PORTNOY: As an RTC official? As an individual? Which?
MR. BARTOLOMUCCI: As all of that.
MR. PORTNOY: Then again I am going to object that it is beyond the scope of her expertise.
BY MR. BARTOLOMUCCI:
Q You may answer it.
MR. GIBSON: Off the record.
(Discussion off the record.)
MR. GIBSON: Let's go back on the record. I want the record to reflect that I also object to the question because I don't think that it is appropriate for our office to be asked to endorse what may or may not be a factual statement or conclusion that Pillsbury is making here. We don't know what they intended by this language.
Now, subject to that objection, you may answer.
MR. PORTNOY: Based on that objection, I am going to instruct the witness not to answer and Mr. Bartolomucci may go to the Chairman if he wishes.

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MR. BARTOLOMUCCI: I will withdraw the question.
BY MR. BARTOLOMUCCI:
Q I'm reading again from the same Pillsbury report on the Rose Law Firm's conduct of the accounting malpractice litigation. On page 4, it says "rather than recite the lengthy facts material to the conflicts issues, all of which are contained in the Inspector General's reports, it is sufficient to refer briefly to the relationships that bear on the conclusions that follow." And then it has a series of numbered paragraphs, including the one that we have just been talking about where it says "the Rose Law Firm through Hubbell and others represented Seth Ward."
My question to you is that numbered paragraph, number 5, in which it says that the Rose Law Firm represented Seth Ward, whatever that means -- and I'm not asking you to comment on that now -- that is a conclusion that they drew based upon the facts set forth in your report; is that correct?
MR. PORTNOY: You are asking the witness --

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MR. BARTOLOMUCCI: Please, Jim.
MR. PORTNOY: She has no knowledge of what they meant or didn't mean other than reading the report.
MR. BARTOLOMUCCI: I didn't ask her what they meant in section 5, but whether they drew their conclusions based upon the facts that she developed in her IG report.
MR. PORTNOY: As long as the record is clear that --
MR. BARTOLOMUCCI: The language that begins on page 4.
MR. PORTNOY: As long as the record is clear that Ms. Black doesn't purport to have any knowledge what conclusions they did or didn't draw, then I'm perfectly comfortable with her agreeing that they said that rather than recite the lengthy facts.
THE WITNESS: With that understanding, Pillsbury says it relies on the facts reported in our report, yes.
BY MR. BARTOLOMUCCI:
Q And I believe I'm correct, aren't I, that

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you testified to this very fact early on --
MR. GIBSON: Excuse me. Let's go off the record a moment.
(Discussion off the record.)
THE WITNESS: The statement read from Pillsbury, Madison reports refers to Inspector Generals' reports, plural. There was an FDIC report which was also issued. Although I'm now with the FDIC IG's office, I at that time was with the RTC IG's office, and my knowledge goes obviously to that report, not the FDIC.
MR. BARTOLOMUCCI: Off the record.
(Discussion off the record.)
BY MR. BARTOLOMUCCI:
Q To go into a new area. In the course of your investigation, what role, if any, did Vincent Foster play in the representation of Madison Guaranty?
A I don't recall that he played a role. He played a role in asking about conflicts within the firm and general FSLIC-oriented conflicts. I don't recall a specific role with regard to Madison.

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Q Based upon your investigation, do you have any idea why Vincent Foster would have reviewed the billing records that turned up in the White House recently?
A I have no knowledge about that.
Q I believe in answer to a question put to you by Mr. Gibson, you said it was not part of your task to analyze whether the Rose Law Firm represented Seth Ward.
A What he asked was whether the scope of our investigation encompassed any representation that they may have undertaken with regard to Mr. Ward, and my answer was no. We were not investigating the Rose Law Firm's representation of Seth Ward. We looked at that with regard to how Mr. Hubbell's relationship with Mr. Ward affected conflicts and with regard to representations that Mr. Hubbell made as to his representation of Mr. Ward in certain matters, what impact that might have had on conflicts. But we did not have an investigation of everything that the Rose Law Firm may have done for Seth Ward.
MR. GIBSON: Off the record.

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(Discussion off the record.)
BY MR. BARTOLOMUCCI:
Q Did you want to supplement your last response in any way?
A No.
Q I'm right, aren't I, that any representation by Rose of Seth Ward to the extent there was representation was material to your investigation, was relevant, even if that wasn't the specific point of it?
A Vis-a-vis Madison, particularly since RTC was engaged in litigation in opposition to Mr. Ward, yes.
Q Now, in the Frost case, loans made to Seth Ward were at issue, were they not?
A Yes. They were used at least at one point in the damage calculations.
Q Therefore, certainly in the Frost case, it would be relevant from a conflicts analysis whether Rose Law Firm had represented Seth Ward since loans to him were going to be an issue in the case?
MR. PORTNOY: As a general proposition or

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in relation to the loans?
THE WITNESS: I was going to draw that distinction, too. It depends on the type of representation. Certainly as to those loans and as to his transactions with Madison, that is definitely relevant. If they represented him in an automobile accident case, that wouldn't be relevant.
BY MR. BARTOLOMUCCI:
Q Can you tell me who represented Madison Guaranty on -- who in the government represented Madison Guaranty on appeal in the Ward versus Madison case after Madison was taken over by the government?
A I don't know off the top of my head who the attorney -- what the name was of the attorney.
Q Is that a question that is best put to you or can you tell me who I should be asking for the answer to that?
A I would ask the FDIC legal division as the successor in interest to RTC. I don't know. They should have records indicating that.
MR. PORTNOY: Off the record.
(Discussion off the record.)

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MR. BARTOLOMUCCI: That's all I have.
MR. PORTNOY: Thank you very much.
MR. GIBSON: I have just a couple of brief questions. After we have been here all evening, I couldn't resist.

EXAMINATION

BY MR. GIBSON:
Q Ms. Black, I wanted you to clarify for me, are you aware of what Pillsbury, Madison & Sutro has been retained to do by first the RTC and now the FDIC?
A I have some general awareness.
Q And would you describe that for me, please.
A Pillsbury has been retained to look at issues surrounding liability, professional liability of Rose from the Madison Guaranty failure.
Q Does Pillsbury's charter run specifically to determining whether or not the Rose Law Firm had a conflict of interest in the subsequent representation of the RTC?
A Not to my knowledge.

Q So their analysis of this would only run in the context of an evaluation of potential civil liability for such a conflict?
A I believe that is true.
Q With respect to the determination of a conflict of interest or an analysis of conflict of interest, where in the FDIC or the RTC would that determination be made?
A There is an outside counsel conflicts committee that has that responsibility, and of course the general counsel himself.
Q Did the RTC in issuing its final report on the Rose Law Firm make any recommendation to Mr. Ryan with respect to the conflicts issues, the technical conflicts issues? Let me rephrase that question.
Did they recommend that Mr. Ryan take any specific action in order to ascertain whether a conflict of interest in fact existed or whether RTC had acted appropriately? Did they suggest a referral, for example?
A They did suggest a referral of these matters to the Arkansas Supreme Court, I believe,

which is the arbiter of such issues in Arkansas.
Q Was such a referral made?
A Yes.
Q Have the results of such a referral to your knowledge come back?
A No.
MR. GIBSON: I have no further questions. Thank you.
(Whereupon, at 6:35 p.m., the deposition was concluded.)

PATRICIA M. BLACK

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey

Notary Public in and for the
District of Columbia

My Commission Expires SEPTEMBER 14, 1996

DEPONENT Patricia M. Black (2-5-96)

ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
16	12	Delete "If"		Transcription Error
28	8	"eliminated"	"illuminated"	Transcription Error
28	9	"eliminated"	"illuminated"	Transcription Error
43	5	Add "so" after "it"		Transcription Error
55	2	"No"	"Oh"	Transcription Error
74	14	Delete "derived that we"		Transcription Error
75	14	Add "that it was from" after "stated"		Transcription Error
205	17	Add "not" after "could"		Transcription Error
205	17	"in"	"any"	Transcription Error

January 30, 1986
Rose Bill to Madison Guaranty S&L
Matter: HDC

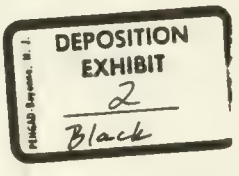
	Standard Value	Difference	January Amount to Bill	September ($639) and October ($550) Bills	Actual Amount Billed
Hillary Clinton	$912.50 7.3 hours	$1818.75 14.55 hours	$2731.25 21.85 hours		
Richard Donovan	$468.75 6.25 hours	-0-	$468.75 6.25 hours		
Davis Thomas	$262.50 3.5 hours	-0-	$262.50 3.5 hours		
TOTAL	$1643.75	$1818.75	$3462.50	$1189.00	$4651.50



1969

HILLARY CLINTON'S IDC BILLINGS

DATE	TIME BILLED	AMOUNT	ACCOUNT BILLED
11/14/85	.5 hours	$ 62.50	GENERAL
11/20/85	1.0 hours	$ 125.00	GENERAL
11/26/85	1.0 hours	$ 125.00	STOCK OFFERING
12/4/85	.5 hours	$ 62.50	IDC
12/6/85	.3 hours	$ 37.50	IDC
12/10/85	.5 hours	$ 62.50	IDC
12/11/85	.5 hours	$ 62.50	IDC
12/19/85	.5 hours	$ 62.50	IDC
12/20/85	1.0 hours	$ 125.00	IDC
12/23/85	1.0 hours	$ 125.00	IDC
12/24/85	1.0 hours	$ 125.00	IDC
12/26/85	.5 hours	$ 62.50	LTD PARTNERSHIP
1/7/86	1.0 hours	$ 125.00	IDC
1/14/86	1.0 hours	$ 125.00	IDC
2/17/86	.5 hours	$ 62.50	IDC
2/28/85	.8 hours	$ 100.00	IDC
3/3/86	.5 hours	$ 62.50	IDC
3/10/86	.3 hours	$ 37.50	IDC
4/7/86	.2 hours	$ 70.00	IDC
5/1/86	2.0 hours	$ 280.00	GENERAL
6/10/86	.4 hours	$ 56.00	GENERAL
SUBTOTAL	**15.0 HOURS**	**$ 1,956.00**	
UNKNOWN	**14.5 HOURS**	**$ 1,818.75**	**Reflected in 1/86 Billing**
TOTAL	**29.5 HOURS**	**$ 3,774.75**	



8/20/85 MF corp res for Ward to act in purchase of IDC

9/3/85 McD/Ward agrmt: Ward pur N of 145th for $1.15; M 270 day optn for $1.187

9/13/85 IDC-MFC Purchase Agrmt. MFC Assignment to Ward

9/24/85 Ward/MF Agrmt.: W pur non-recourse all N of 145, water & sewer; 270 day option for amt of note + int; 10/4% commission

* Backdated Agrmt excepts 22.5 acre Holman acres; $35K optn. payment

10/4/85 IDC closes.

2/25/86 W $70K unsecured note to MG, ammt left on IDC

2/28/86 Castle Water & Sewer closes: all IDC gone except Holman acres; $1.15 W note paid

3/31/86 MG gives W $400K: secured by Holman acres; personal recourse

4/7/86 MF note to Ward, $300K

5/1/86 90 day Option Ward to MFC; $400K price; $1K paymt

6/6/86 Ward released from per lia on $400 and $70K notes

12/12/86 Wards quitclaim Holman acres to Madison

9/2/87 Ward v. Madison compl. filed

8/30/88 2 day trial begins, judgement of ~$350K in favor of Ward

9/30/93 Ward/RTC settle: Ward pays $325K and gets full release



DATE	ROSE LAW FIRM - ATTORNEY CONFERENCE BILLINGS	HOURS BILLED
Stock Offering		
4/23/85	H. CLINTON - Conf. R. Massey; Conf. W. Gregory; Conf J. McDougal; Conf. J. Latham. R. MASSEY - Conf. H. Clinton Conf. J. Latham; Conf. L. Baledge; Research. W. GREGORY - 0. L. BALEDGE - Conf. R. Massey	HRC-2.0 RM-2.50 WG-0.0 LB-1.10
4/24/85	H. CLINTON - Confs. Massey; Conf. J. Latham; Conf. D. Fitzhugh; Review drafts. R. MASSEY - **NO** Conf. w/ H. Clinton	HRC-1.5 RM-0.0
4/26/85	H. CLINTON - Conf. R. Massey; Conf. Davis Fitzhugh; Conf. J. Latham. R. MASSEY - **NO** Conf. w/ H. Clinton	HRC-2.00
4/29/85	H. CLINTON - Conf. Massey Conf. Bassett R. MASSEY - **NO** Conf. w/ H. Clinton	HRC-1.00
6/4/85	H. CLINTON - Conf. Massey R. MASSEY - **NO** Conf. w/ H. Clinton	HRC-.20
6/5/85 Clinton	H. CLINTON - Conf. C. Giroir & McDougal C. GIROIR - **NO** Conf. w/ H. CLINTON	HRC-.20

PENCAD-Bayonne, N. J.
DEPOSITION EXHIBIT
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Black

DATE	ROSE LAW FIRM - ATTORNEY CONFERENCE BILLINGS	HOURS BILLED
6/7/85 Clinton	H. CLINTON - T/Conf. Massey R. MASSEY - **NO** T/Conf w/ H. Clinton	HRC-.50
11/26/85 Clinton	H. CLINTON - Conf. W. Hubbell T. THRASH Conf. S. Ward W. HUBBELL - **NO** Conf. w/ H. Clinton	HRC-1.0
Limited Partnership		
5/08/85	H. CLINTON - T/Conf. Massey R. MASSEY - **NO** T/Conf w/ H. Clinton	HRC-.50
7/18/85	H. CLINTON - 2 Confs. R. Massey; 2 Confs. S. McDougal; Review memo. R. MASSEY - **NO** Confs. w/ H. Clinton	HRC-1.00
7/25/85	H. CLINTON - Conf. Massey MASSEY - **NO** Confs. w/ H. Clinton	HRC-0.50
General Madison		
9/5/85	H. CLINTON - Conf. R. Massey R. MASSEY - **NO** Confs w/ H. Clinton	HRC-.30
9/20/85	H. CLINTON - Conf. R. Massey & J. Latham; Conf. R. Massey and D. Knight R. MASSEY - **NO** Confs. w/ H. Clinton	HRC-1.00
11/20/85	H. CLINTON - Conf. W. Hubbell Conf. S.Ward W. HUBBELL - **NO** Confs. W. H. Clinton	HRC-1.00

DATE	ROSE LAW FIRM - ATTORNEY CONFERENCE BILLINGS	HOURS BILLED
12/20/85	H. CLINTON - Conf. Massey MASSEY - **NO** Conf. w/ H. Clinton	HRC-1.00
6/10/86	H. CLINTON - T/Conf. R. Massey Conf. S. Ward. MASSEY - **NO** Conf. w/ H. Clinton	HRC-.40
5 I.D.C.		
12/4/85	H. CLINTON - Conf. R. Massey. R. MASSEY - **NO** Conf. w/H Clinton	HRC-.50
1/7/86	H. CLINTON - Conf. K. Shemin; Conf. S. Ward. K. SHEMIN - **NO** Conf. w/ H. Clinton	HRC-1.00
1/14/86	H. CLINTON - Conf. J. Birch; Conf. K. Shemin; Conf. R. Donovan. J. BIRCH - **NO** Conf. w/ H. Clinton K. SHEMIN - **NO** Conf. w/ H. Clinton R. DONONVAN - Meeting H. Clinton	HRC-1.00
Babcock		
5/1/86	H. CLINTON - Conf. H. Rule Conf. R. Cobb T/Confs. D. Denton H. RULE - **NO** Confs. w/ H. Clinton	HRC-1.00

DATE	ROSE LAW FIRM - ATTORNEY CONFERENCE BILLINGS	HOURS BILLED
5/2/86	H. CLINTON - Confs. K. Burns T/Conf. H. Rule T/Conf. B. Daugherty K. BURNS - **NO** Conf. w/ H. Clinton H. RULE - **NO** Conf. w/ H. Clinton	HRC-1.00
5/13/86	H. CLINTON - T/Confs. H. Rule H. RULE - **NO** T/Confs. w/ H. Clinton.	HRC-.50

DEPOSITION OF S. WOOTEN EPES
IN RE: S. RES. 120

MONDAY, FEBRUARY 5, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of S. WOOTEN EPES, called for examination pursuant to notice of deposition, at 10:15 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, ESQ.
Majority Associate Special Counsel
MITCHELL FEUER, ESQ.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALAN STRASSER, ESQ.
Kutak Rock
1101 Connecticut Avenue, NW
Washington, DC 20036–4374
On behalf of the Deponent.

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PROCEEDINGS

Whereupon,

S. WOOTEN EPES

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. O'CALLAGHAN:

Q Good morning. My name is Michael O'Callaghan. I am an associate special counsel for the Majority in the special committee, and to my left is Mitchell Feuer, who is a counsel for the Minority.

This deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a special committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority, and related matters. And those are the issues that are contained in -- that will be the focus of today's deposition.

This deposition is in advance of public hearings which may occur in February or March, depending on the status of the Committee. It is likely you will be asked to testify at those hearings. We will ask you a series of questions today. You have already been sworn in. You will be testifying under oath.

If you don't understand a question, let either me or Mr. Feuer know and we will rephrase the question we have asked. If you need a break, also let us know and we will be happy to accommodate you.

The stenographer is preparing a record of questions and answers. The deposition will be treated as Committee Confidential until the commencement of the hearings, public hearings. Prior to the hearings, you will receive a letter from the Committee informing you that you may come to the Senate to review the transcript of your deposition and make notes of corrections for transcription on an errata sheet.

I think what we have been doing with people living outside of Washington, we have been sending

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people copies to make corrections on. If you are called to testify at a public hearing, you will be permitted to have a copy of your deposition transcript as well. Generally, we have been doing it four days before the hearings.

You may be represented by counsel. Are you represented by counsel today?

A I am.

MR. O'CALLAGHAN: Could Counsel please state your name and the name of your firm.

MR. STRASSER: I am Alan Strasser. I am with the firm of Kutack Rock.

BY MR. O'CALLAGHAN:

Q Objections to the form of questions will be noted for the record. Counsel may object on grounds of privilege or relevance. And the Committee Chairman may rule on objections where the witness refuses to answer a question.

Could you please state and spell your full name for the record.

A Yes, Wooten -- actually my first name S-h-a-d-e, middle name W-o-o-t-e-n; Epes, E-p-e-s.

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Q Are you aware of the document request made by the Committee with respect to the activity of the Arkansas Housing Development Agency, or Arkansas Development Finance Authority?

A Document requests, no.

Q Have you spoken to anyone other than your counsel about your testimony in this deposition?

A No.

Q Did you take any steps to prepare for this deposition?

MR. STRASSER: Other than talking to counsel?

MR. O'CALLAGHAN: Other than talking to counsel, yes.

THE WITNESS: No.

BY MR. O'CALLAGHAN:

Q Did you consult any documents or --

A No.

Q And your present business address?

A 124 West Capitol Avenue, Suite 1770, Little

Rock, Arkansas 72201.
Q And where are you currently employed?
A I am with the law firm of Kutack Rock.
Q What's your position there?
A I am a partner.
Q How long have you been with the firm?
A Since January 1989.
Q Could you give me a brief description of your employment history since you were graduated from law school?
A I began my legal practice in June of '72, in the town of Helena, Arkansas. Stayed with that firm for 8 years. It was -- I later became a partner and it was Roscopf & Epes, and left Helena, Arkansas in 1980. Was employed at the University of Arkansas at Little Rock from May of 1980 until September of 1983. At that time, I became the director of -- executive director, I guess it was, of the Arkansas Housing Development Agency.

During my tenure there, the agency's legislative scope was expanded and renamed to become the Arkansas Development Finance Authority and my

title was changed to president. And I served in that capacity until January of 1989 when I joined the Kutack Rock law firm.
Q When you became director of the Arkansas Housing Development Agency, was it in May of 1983?
A September '83.
Q September '83.

How did you come to get that position?
A I applied to the -- I guess it was the board of directors. I was interviewed by a committee of the board of directors of the Housing Development Agency and was selected among several applicants at that time.

The status of the job is that the selection of the director was by the board, but once selected, then I served at the will of the governor.
Q Did the governor or the governor's office have any input into the selection process?

MR. STRASSER: You are asking if he knows?
MR. O'CALLAGHAN: His personal knowledge.
MR. STRASSER: His personal knowledge?
MR. O'CALLAGHAN: Sure.

THE WITNESS: I am not sure what input they had.

BY MR. O'CALLAGHAN:

Q Have you ever heard that they had any input?

A I don't remember.

Q Who was on the hiring committee that you interviewed with?

A I don't remember all of them. I recall one of them was a lady who is now, Margaret Eldridge is her name now. At that point her name was Margaret Davenport.

I believe it was a three-member committee, and I just can't recall. I think I remember one other one, but I hate to say it because I am not sure it is right.

Q How did you -- to the best of your memory, how did you come to interview for the job?

A I heard it was available from a friend who used to work at the agency.

Q Who was that?

A Jerry Webster.

Q Was he an employee of the agency?

A Not at the time. He was a former employee.

Q What was his position at the agency?

A He was not director, but I don't recall what his title was.

Q What area of law did you practice before you became the director of AHDA?

A Before I became director, I was not practicing law. When I was in law practice, I had a general practice. A lot of the practice was real estate, commercial law.

Q What was your position at the University of Arkansas, Little Rock?

A I was director of the local government institute.

Q What did that involve?

A It was a public policy research office, and it had a small staff. And we conducted studies in state and local government issues, generally revolving around taxation and intergovernmental funding problems.

Q Did you have any contact with anyone at the governor's office before being hired at AHDA?
A Yes.
Q Who did you have contact with?
A Bob Nash.
Q What was the nature of that contact?
A The nature?
Q What did you talk about?
A The nature was to let him know that I had an interest in the job.
Q Why did you contact Bob Nash?
A I don't recall.
Q What was his position at the time?
A He was on the governor's staff; I don't remember the title.
Q That was in September of 1983 or before that, to the best you can recall?
A It was before, yes. I started the job in September. I was actually interviewed probably a few weeks before that, maybe two or three, so --
Q Do you recall what the purpose of the conversation with Mr. Nash was; anything beyond

that? Did you have any interest as to how the agency worked, or do you know why you got in touch with him?
A I don't recall. I had known Bob Nash through my work at the university. In his former employment, he was with the Rockefeller Foundation and they provided some funding for the local government institute. So that's probably why I contacted him instead of someone else. But other than that, I don't remember.
Q Was it your idea to contact him or did someone suggest you contact him?
A It was -- I don't remember. It's, you know, ancient history.
Q Did Mr. Nash tell you whether or not he had any ability to affect your chances of getting the position?
A I don't recall that he did.
Q I realize it was a while ago, but I am trying to get a feeling for whether this was an information-gathering session or whether it was a meeting set up to help you get the position.
A I just don't recall. I mean, it was -- it

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was an appointed position. And I've told you all I remember.

Q Do you remember how long the conversation was, the meeting?

A No.

Q Was it face to face?

A I don't remember.

Q You don't remember if it was on the phone, or if you met with him in his office?

A No.

Q Do you recall whether in '83 you went over to the governor's office at any time before September, before you started?

A No, I don't remember. That's a year of a legislative session which would have been early in '83 and I would have -- I was somehow involved in the session during that period, so I very easily could have been upstairs in the governor's office visiting friends. I had a number of acquaintances that worked on the governor's staff.

Q Who did you know that was on the governor's staff?

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A I don't remember all the names. If you gave me a list I could probably tell you half of them that I knew, but right now, there are people that came and went on the governor's staff over their tenure. And if I told you who I knew at that point in time, it might be two years later they were there. I don't know.

Q Do you recall with any certainty the people you knew around the time period of September of 1983 who was working there? You met with Mr. Nash. Did you meet with anybody else?

A I don't recall meeting with anyone else, you know, on any particular business. As I said, I had acquaintances that worked there and I would occasionally step in and say hi to them, but that's all I remember.

Q Do you remember who you knew in September of 1983, in that time period who you knew well that was working in the governor's office? It was early on in that administration, I believe.

A Oh, I think Sam Bratton was there. He was in my class at law school, and I think he worked on

the governor's staff for the duration, so I think he would have probably been there.

As I said, there were a number of people who had come and gone. And I was around for a number of years. And it is hard to recall who was there in September of '83, other -- I know Sam was there for a long period of time. That's all I can say for sure that would have been there.

Q Did you know Betsey Wright?

A Yes, but I didn't know her well, if that was your question.

Q Let me take a step back.

You knew Sam Bratton, you went to law school with him?

A Yes.

Q Did you have -- was he a good friend? What kind of contact did you have with Mr. Bratton?

A Just -- he was not a good friend, but I -- I mean, since 1969 or '7 --

Q Did you have any contact with him in relation to your position with the university?

A I don't believe I did. Not that I recall.

Q Did you discuss your interests in the ADHA position with him?

A Not that I recall. It has just been too long.

Q You said you know Betsey Wright, but you don't know her well. How do you know her?

A She was chief of staff for the governor.

Q Did you know her in September of 1983?

A Yes.

Q How did you first meet her? How did you know her?

A I am trying to recall when I first met her. I met her sometime in 1982. She was campaign director, as I recall, for the '82 campaign, and I was between -- between the election in November of 1982 and the inauguration in January of '83, the university assigned me to work on the transition -- the governor's transition efforts from November till January. And that's when I would have become acquainted with her. I don't recall if I had met her before that or not. If I had, it was very casual.

Q Did you work on the campaign at all?

A I did some. I don't remember what I did, but I know I did some volunteer work because I was in and out of the headquarters a few times, and one of my daughters worked down there. She was a 6th, 7th grader I believe, and helped address envelopes, I believe.

Q What you did at the campaign, was that on a part-time basis?

A Definitely. All volunteer. I didn't take time off from my job to do it. It was strictly after hours. Occasional.

Q What type of work did you do for the transition?

A I don't recall specific -- I didn't have a particular title. My recollection is that I gathered information about issue areas, generally areas that I worked on when I was at the university, involving taxation and revenues and things like that. I occasionally sat in meetings with other people that would come in and offer their views about what needed to be done in state government.

Q And you were assigned to do that by the

university?

A Right. They loaned me to the transition effort. In other words, that was my job. I was being paid by the university while I was doing that.

Q Did you do any work on issues related to the Housing Development Agency?

A I don't remember if I did or not. It's been too long. I can't say.

Q We were talking earlier about who you knew in the governor's office around September of 1983. Did you know Maurice Smith?

A Yes.

Q How do you know Maurice Smith?

A He is a friend of a friend. One of the people that worked under him at some point during the Clinton Administration is a real good friend of mine, and she worked for Maurice. And so I became acquainted with him through that friendship. I just know him casually, I don't know him that well.

Q Did you know him at the time you applied for the AHDA job?

A I don't recall.

Q Do you recall when you first met him?
A No. I probably met him before that, but I don't -- I probably would have met him during that time I was working on the transition, but that's just a guess. I don't know.
Q This friend of yours that knew Maurice Smith, what was the friend's name?
A B.A. Rudolph, R-u-d-o-l-p-h.
Q And was B.A. Rudolph working at the governor's office at the time you applied for the position?
A I don't remember whether she was there or not. She moved at some time around that time, and I don't remember.
Q Other than the people that I mentioned, is there anyone you recall that you knew at the office, the governor's office, at the time you applied for the AHDA job?
A I don't recall.
Q With regard to your position as director of AHDA, would you describe what your -- give me an overview of what your responsibilities were in that

position.
A Well, I ran the agency; hired, fired, and carried out its mission.
Q How many people did you supervise?
A At the beginning it was in the low 20s. I think by the time I left it was close to 40.
Q And had you had any experience with bond underwritings or issuances before you became director of the agency?
A No, no direct experience. I had done -- I had attended a seminar while I was at the university, in New York, the seminar was in New York. And I had begun doing a little bit of research in the area of infrastructure finance. That was kind of the beginning of a body of research and kind of a thrust by a fellow who is still floating around nowadays.
Pat Choate wrote a book about it and the basic thrust was our infrastructure was crumbling and somehow we were going to have to rebuild it. How do you do that? Well, normally you borrow money. So I was beginning to learn about the state's options in anticipation of what we could do to begin that

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process. And of course borrowing, using bond finance is one way of doing that.

MR. FEUER: Pat Choate has floated in front of the Senate Banking Committee from time to time.

THE WITNESS: He is kind of a gadfly.

BY MR. O'CALLAGHAN:

Q Would you say your role was more as an administrator -- first let me ask that question.

A More of an administrator than what?

Q Than -- okay, let me finish it.

A Okay.

Q Than a -- did you review proposals by different underwriting firms to do bond underwritings for the agency? Would you flesh out more what your role was and responsibilities with respect to that?

A Well, it -- I was there five years, so I did a little bit of everything over the course of it. Yes, I did that.

The agency employed underwriters and lawyers, who were the technicians that structured and completed the bond financing. The agency itself had staff which then took those bond proceeds and used

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them for the purpose for which they were intended, or at least were the administrators of those funds, which were then, in the case of single family housing, were then passed around the state through various lenders who wanted to loan those funds to qualified buyers.

Q Did you have a role in determining how those proceeds were doled out?

A A minor role. Our -- there weren't -- generally our problem was, was finding enough lenders to cover the entire state such that the funds were accessed in a fairly uniform fashion. Particularly in the early days there, we had trouble getting lenders educated because the program, being a bond finance program, it had more documentation required for our home loan than a savings and loan normally required.

And so we had to train lenders how to participate in the program, and we had to encourage them to participate in the program. And so our role was fairly multifaceted in that regard. But it wasn't like we had too many people -- too many

lenders coming to us for funds. We were generally going out, trying to find them.

But we had rules and most of the rules were prescribed by Congress when they set the program up. And that was why we had to do the educational effort because it was different than a typical home loan.

Q And initially the agency was limited to providing funds for housing; isn't that correct?

A Yes, single family housing and multifamily housing. It's generally -- the single family part of it is generally referred to as mortgage revenue bond program. And the program has with it certain income restrictions and certain home -- price of home restrictions. And you start -- you start trying to get lower income people into homes. Then you also have your typical credit requirements and that's usually the tension involved in trying to get this money used.

Q Before you began work for the Housing Development Agency, did you have any meetings with the governor, any discussions, contacts?

A I don't recall that I did, but I might

have. I just don't recall.

Q Did you know him before you started your position?

A Yes.

Q How did you know him?

A A friend introduced me to him in 1975.

Q And what was the context of that meeting?

A I don't remember. At that time I was in Helena, practicing law.

Q And between 1975 and 1983, when you started at AHDA, did you have any contacts with the governor?

MR. STRASSER: Could you explain the relevance of this to your inquiry?

MR. O'CALLAGHAN: Trying to establish the relationship between different people in the agency and the governor's office, and in turn, look at the relationships of the people involved in the underwritings.

MR. STRASSER: Would you tell me that again? The relationships between --

MR. O'CALLAGHAN: Can you read that back.

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(The reporter read the record as requested.)
MR. O'CALLAGHAN: If you look at Section 1(b)(3), authorization to -- "investigation of public hearings into and study of all matters that have any tendency to reveal the full facts about bond underwriting contracts between Arkansas Development Financial Authority and Lasater & Company." So that's the relevance.
MR. STRASSER: I don't see how any meetings that he had before he was in the agency have anything do with that.
MR. O'CALLAGHAN: Just trying to establish the relationship with the governor and how that might --
MR. STRASSER: Between him and the governor? He wasn't in the agency before 1983.
MR. O'CALLAGHAN: It may bear on his actions while in the agency with regard to his relationship with --
MR. STRASSER: Why don't you try to elicit some facts before that, before you review eight years of whether he had any kind of meetings, at any kind

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of social events or any other circumstance, with the governor before we go off on this wild goose chase?
MR. O'CALLAGHAN: With all due respect, I don't believe it is a wild goose chase. And if we can do it without spending unnecessary time on irrelevant meetings, I will endeavor to do that.
MR. STRASSER: The question you just asked him concerned all the contacts he had with Bill Clinton for eight years. And if that isn't a wild goose chase, maybe I don't know one when I see one.
Now, my thought here is why don't you ask a question or two about this, and we will see how far afield you get. But if you do, I will direct him not to answer.
MR. O'CALLAGHAN: That's fine. If I want the witness to answer, we will go to the Chairman, if that's okay.
MR. STRASSER: Okay.
BY MR. O'CALLAGHAN:
Q A way which may expedite this -- and I am not trying to go on a goose chase of any nature -- if you can describe the nature of your relationship with

the governor over the time period '75 to '83, whether you were good friends, saw each other frequently, infrequently?

A I was an acquaintance. I saw him infrequently.

Q Infrequently. Would you characterize that as one or two times a year, once a month, once a week?

A Less frequently than once a month, probably two or three times a year. I don't remember. It's been too many years.

Q When you had the occasional contact with the governor, was it normally in relationship to your legal practice, your position at the university, social contacts?

A It would have been social.

Q And who is the friend that introduced you to the governor in 1975?

A Brady Anderson.

Q Who is Brady Anderson?

A He is the ambassador to Tanzania.

Q Did he work in the governor's office at any

time?

A He did.

Q What was his position there?

A I don't remember. I mean, he was on the staff is all I recall, but positions were fairly nondescript.

Q Nothing specific you can recall?

A No.

Q Do you recall when he was employed in the governor's office?

A He was there between '78 -- not '78, it was end between January of '79, and November of '80.

Q Did he work in any other gubernatorial administrations other than the one you identified?

A No.

Q I believe you testified earlier there came a time when the Housing Development Agency's authority was expanded; is that correct?

A Right.

Q Could you explain when that occurred and what the substance of the changes were?

A Right. It occurred in the 1985 legislative

session. And our sessions begin in January and generally go 90 to 120 days into the year. So it was at some point during that session the name was changed to the Arkansas Housing Development Authority. And along with the name change was an expansion of our powers to issue tax exempt revenue bonds as well as taxable bonds, in many different areas, including health care, agricultural, business, industrial development, public facilities for government. And I think that pretty well covers it.

We tried basically to create a multipurpose revenue bond issuing authority to be a centralized revenue issuer for state government. The housing agency had done it in the past for a number of years and there weren't very many other agencies throughout state government that issued bond on a regular basis. So the thought was to put that type of expertise in one place to fulfill that function for multipurposes.

MR. FEUER: For the sake of clarity, Mr. Epes, to what was the name changed in 1985?

THE WITNESS: Arkansas Development Finance

Authority; we called it ADFA.

MR. STRASSER: You said the opposite before.

THE WITNESS: Oh, did I? I'm sorry. That's a first.

BY MR. O'CALLAGHAN:

Q So generally this was done to centralize all the state bond financing through one agency; is that correct?

A All revenue bonds. There are also general obligation bonds that are issued from time to time, yes.

Q Who were those issued by? And I will give you a time period, '83 through '86.

A Well, there aren't that many GO bonds out. Generally I believe they are issued, the balance of them, I believe, are all issued from -- through the Arkansas Soil Conservation Commission or something like that, I believe. That's their title for water projects. And I believe they have also issued some bonds for waste water projects, sewer projects.

And the best I can recall, those are the

only general obligation bonds that were issued during that time.

Q And were there any revenue bonds issued by any other agencies during that time period?

A Yes.

The University of Arkansas Board of Trustees, I know issued some. The Department of Education issued some bonds that were for local school districts. I wasn't sure whether those were actually revenue bonds or what they were, but they were some other kinds of bonds that I never could figure out what they were.

That's all I seem to recall. There might have been some other state universities besides the University of Arkansas that issued -- there was the Student Loan Authority that issued bonds separately. That's all I can recall.

Q Are you familiar with the bond offering that was done by the State Police Commission?

A Oh, yes, I forgot about that. Yes, I recall that that one happened. That's kind of an example of an agency just -- that doesn't normally

issue bonds going out and issuing bonds. And I don't think they have issued any before or since.

But it was not -- there was a question of whether it was actually a revenue bond or general obligation because the -- they were assessing some type of driver's license fees or something to pay off those bonds, I think.

Q With regard to the bond offerings you just identified that were done by the University of Arkansas, the Department of Education, the Student Loan Authority, and also State Police Commission, do you recall specifically why those offerings were done through those agencies rather than through ADFA?

A All of the higher education ones were specifically excepted from the legislation when ADFA was created. There was a clause in the legislation which said it was the intent to create the finance authority as the issuer of revenue bonds for state government. And there was a list of agencies which that covered, and then there were some specific exceptions; two of them I know were student loan and higher education.

I don't recall the Department of Education -- that's why I was saying I wasn't really sure what those -- how you would characterize -- it was kind of a revolving loan fund, but the Department of Education had run for years, and I just -- I don't know whether it was -- should have been covered by the legislation or not. I can't explain that.

Q How about the police commission offering?

A I don't know. I don't know why it was done separately. I can't recall.

Q Were you ever consulted about that bond offering or whether ADFA should be involved?

A No.

Q Do you know if anyone at the agency was?

A I don't know. If a contact was made, probably at some point, it would have risen to my level, but maybe not. I don't know.

Q Were there any state or federal agencies that had oversight over AHDA and ADFA?

A Well, I guess technically the IRS, they can conduct audits of tax exempt bonds. I don't recall any state level authorities that regulated us.

Q So you weren't regulated by the State Securities Commission?

A No, tax exempt bonds are exempt from registration.

Q During your time as director of AHDA and ADFA, were there any audits conducted of the agency by the IRS?

A No, not that I recall. I think I would have recalled that. I am fairly certain.

Q Did the agency have to submit any kind of a forms or documentation to the IRS with regard to the offerings, with regard to their regulation of the agency?

A At some point while I was there, we became subject to a reporting requirement for the mortgage revenue bond program which had to be done annually. And it was sent -- I am almost certain it was sent to the IRS.

And when bond issues were closed -- I think this was after '86 or sometime -- there is a form that has to be filed, it's called form 8038. And it is just more or less a notice form that goes to the

IRS, that generally describes the bond issue, the size, the purpose, the various interest rates of the bonds.

And once that's done, there normally is another contact that's required; except for that housing report, that has to be done annually.

MR. O'CALLAGHAN: Take a quick break.

(Recess.)

MR. O'CALLAGHAN: Let's go back on the record.

BY MR. O'CALLAGHAN:

Q Right before we went off the record, you described for me form 8038 that needed to be filed. Did you say those weren't required until 1986?

A I think I am right. It could have been '84, I don't remember. At some point during the '80s, they became required. They were a series of tax bills, roughly every one to two years for a period there, that made various changes in tax exempt bond rules. And it is hard for me to keep up with which was which.

It was sometime '84 to '86. '86 was a

massive change because now it is the 86 code and before that it was the 54 code. But I think 8038 came in in '84, but I am not certain.

Q Were you involved in helping to advise or design a legislative package to make it possible for ADFA to expand its authority?

A I was.

Q What was your involvement?

A It was extensive. I was a part of a working group that put together a large number of pieces of legislation that were generally referred to as the governor's economic development program of 1985. And in the process, my focus was mostly related to putting together the legislation for the Development Finance Authority.

Q So if you would characterize your position, would you have been the lead person on that aspect of it?

A Probably that's the way it would be characterized, yes. We did have a group, as I said, but we kind of were assigned different responsibilities, and that was my chief

responsibility.
Q How many people were in the group?
A Oh, it varied. It was a fairly long period of time. We started in -- sometime in the summer and finished like March or April when the session was over.
Q Summer of 1985?
A 1984. It was completed in '85, right.
I would guess the number would have varied from time to time, as many as eight or 10, and give or take one or two people because some people would -- since it was such an extensive period, occasionally someone who ran another agency might send a representative to a meeting, so we had people coming in and out of the group.
Q Who else from your agency participated?
A It was principally me. I believe -- it is possible that one other person did, but I am not certain; Bill Wilson, maybe. I had two people that were kind of the equivalent of the deputies, and the other was C.E. Anderson. So either one of them or both could have participated somewhat.

Q For the record, C.E. Anderson are the initials, C.E., and then Anderson?
A Right.
Q Was anyone from the underwriting community involved in the working group?
A I don't believe so. It was -- the only people that I recall that were brought in from the outside were some lawyers to help us with our drafting work. It was a state government group of people that were putting together legislation for the state, and I don't believe any underwriters were involved, at least not as a part of the working group.
It is possible that from time to time, they were consulted or information was made available to them so that they knew what was going on and maybe had some input. But they were not -- not sitting at the table drafting or working on the legislation.
Q Do you recall whether there was any specific contact with any firms made while this development program was being put together?
A I can tell you that my goal throughout the

process was not to bring underwriting firms into that process.
Q Okay.
A And I believe we fairly well stuck to that policy.
Q Were any firms trying to get access to involvement?
A Sure, that's why I wanted to keep them out.
Q Do you recall who that was?
A I really don't. It's been too long.
Q Were there some firms that were in favor of it and some firms that were opposed to it?
A There were some firms in favor of it. There were some firms that were noncommittal, and there was one firm against it, at least one that would come out and say so.
Q Was there anyone from the governor's staff that was a member of the group?
A I know one member was Bob Nash, because that was his -- his responsibility on the governor's staff was, I think, he generally was liaison for economic development type efforts. I think after

that legislation that became more or less his title, but I think at that point it wasn't necessarily his title, his function was generally related to that.
Q Anyone else?
A I think we had one or two people, but I just don't recall their names. Bob was more or less the coordinator of the effort. And there were some other people that worked with him, and maybe with one or two of the other agencies that were affected by some of the legislation, but I just don't recall who they would have been.
Q Were you personally contacted by anyone in the underwriting firms during the summer of 1984 with regard to the economic development program?
A I don't recall. It would not have been unusual for someone just -- it probably wouldn't have been the summer of 1984, because that was the infancy of the process. But at some point when it became known we were putting legislation together, we had board meetings monthly, underwriters attended board meetings, and we reported at board meetings what we were doing, and I discussed it with my board. And I

discussed it with the people in the meeting to elicit any suggestions or ideas, or things like that, that they might have.

Q Were there suggestions that you requested, were they normally done orally? Did you ask for written proposals?

A No, I did not ask for -- I don't recall receiving writings. As much as anything, our goal was to survey what was going on around the country and take advantage of other people's successes and implement them in Arkansas. So that was the reason I would have elicited advice or -- as well as the fact that, sometimes what works in one part of the country doesn't work in Arkansas.

So I was interested in hearing Arkansans' reaction to if we wanted to do something some other state did, did they think it would work there. So that's what -- we were charting new waters for Arkansas particularly; and in many ways, it was fairly new for the rest of country as well.

Q With regard to board meetings, were those generally public meetings anyone could attend?

A They were always public meetings because we have a Freedom of Information Act which requires they be public meetings, yes.

Q You said that underwriters generally attended the board meetings. Would underwriters from each underwriting House in Little Rock attend, or can you --

A Most of them. Well, it was firms that did work at the Authority, were parts of underwriting groups. Normally when a bond issue was done, we would have more than one underwriting firm involved in a bond issue. So when it was just the housing agency, we did strictly housing bonds, and so it was a smaller number during that period of the agency.

When we became the Finance Authority, we got into other types of financings and did business with larger numbers of firms.

Q When you said when it was the housing agency, small numbers of underwriters or smaller numbers of offerors or both?

A Both.

Q Was there a list of underwriters that the

agency used when it was the Housing Development Agency?

A Yes, there was what we referred to as our team of underwriters for the single family program, and then we had a team of underwriters for the multifamily program.

Q How were those teams established?

A Before -- they were actually put in place before I began my job there. I don't -- I can't say definitively because I wasn't there, but it occurred sometime in the first half of 1983. I know the single family one do, because they did a financing, sometime before June of '83, and that group of underwriters did that financing, so they would have been hired sometime before May or so of '83.

Q Do you recall who was on that team, which underwriters?

A I think I recall. I can tell you most of them, and I believe I will be right.

There were approximately six or seven firms and so I might miss one or two, but the senior manager, which is the underwriter that does most of

the work, structuring the bonds, and then the lead underwriter for the bonds was PaineWebber. There was one or two New York firms that were co-managers. I believe First Boston was one, I don't recall who the other New York firm was. I think there was another New York firm.

And then there were, I believe, three local firms, T.J. Raney, Stephens, and it was a local office of George K. Baum. And I believe that's -- it is those plus one other firm that I can't recall.

Q Those are the New York firms?

A Yes, I think so.

Q And you said there was a PaineWebber and then there were some co-managers from New York. They also were lead underwriters, would they be characterized?

A There was only one lead, yes.

Q When you say co-manager, are you referring to them -- would that also be characterized as a co-underwriter?

A Yes, all of those others were co-underwriters, yes. Actually the full term is

co-managing underwriter, yes.
Q Do you know how this team was selected?
A I don't -- I can tell you what I know about it. I can't say exactly how it was selected. I know that there were requests for proposals distributed to a large number of firms. And the firms responded to those requests and were interviewed, and a group of firms were selected. I don't know much more than that is, because I wasn't there then.
Q Was this request for proposals for all bond underwritings, or just for that specific offering?
A I don't remember. I mean, I never did know, but when I came there, my -- what I was told was they were selected as our team for single family mortgage revenue bonds. And that was on an ongoing basis.
Q And did that come to change at any time?
A PaineWebber is still the lead underwriter there. Some of the co-managers changed. For instance, oh, I think -- I'm sorry. One of the co-managers I left out, I believe Lasater was in that group.

Q When you arrived?
A Yes, I forgot about that. That was one of the changes. So at some point later on, his firm went out of business so his firm dropped out of the group. I know, since I left the agency, another state firm has been added to the group because it's a firm that does business in the state. And from time to time the local firms have changed names or ownership or whatever, and they've either gone in or out of the co-manager group, but the lead managers stayed the same.
Q While you were director of the agency, could you give me a description of what criteria you used to pick co-managing underwriters for the different offerings?
A At what point in time was this in?
Q Why don't we start first when it was still AHDA and then we can go to ADFA after that.
A That's -- the difference is because when I was at AHDA, I am almost certain we didn't hire any underwriters during that tenure because we had -- we already had our multifamily team and our single

family team.

And so I don't recall -- well, I will take that back. I think we did one little financing, I don't remember who it was -- what was it? It might have been a home improvement type structure that we hired one firm do. It was a real small transaction, and I think they were basically hired because they had experience. Home improvement was a real tough -- real narrow part of issuing bonds because they were small bonds and small bond issues, and not many people are interested in them.

So really we didn't have -- we were not in the routine of hiring underwriters until we became the Finance Authority, and of that the point we started doing new types of programs and so we set up a process, because we did it regularly, at that point. And we sent out requests for proposals which tried to elicit information from underwriters concerning what kind of experience they had in the various types of bond issues that we were doing, and asked them to tell us what they would propose to do with regard to that particular type of bond issue.

And then we would try to analyze the proposals. In most cases we narrowed it down to a group of two or three, maybe four, that we thought were better than the others and had interviews where we could get more specific about what their capabilities were and what their proposal was with regard to what we wanted to do.

Q And that's with regard to the co-managers or is that lead underwriters?

A That was lead. We would usually select co-managers based on two criteria. One would be whether they had a presence in the state because we wanted to get a good effort to sell bonds within the state as well as out of the state, and get an understanding of what types of bonds needed to be -- how they needed to be structured so we could sell some in the state.

And then we would usually bring in additional national firms to help us with either bond distribution, or maybe we thought that they had -- ran a close second in their proposal and had some expertise to offer. It was just various reasons why

we would select different firms for co-managers.
Q So, from what I understand, first it was the presence in the state for the co-managers?
A Yes, that was the -- we had what we called our local group of underwriters that were involved, and that was their main -- the main basis for having them involved, yes.
Q What type of services did the local group of underwriters provide with respect to the offerings?
A Generally, what they did was sell bonds. Occasionally, they would have some input to the -- to the senior manager, concerning which types of -- you know, which maturities or structures of bonds were selling better in-state than others, so that those types of bonds might be structured into the bond issue.
Q And were the co-managers chosen at the same time as the lead underwriters, or was that --
A Usually, yes.
Q Did the lead underwriters have any say in who the co-managers would be, or was that

determined --
A I don't recall that ever being the case. I don't believe so. If they had their way, there wouldn't be any co-managers.
Q Why is that?
A They will get to do it all themselves. More compensation.
MR. FEUER: So lead underwriters had to share compensation with co-managers?
THE WITNESS: Yes.
BY MR. O'CALLAGHAN:
Q So the agencies sent out requests for proposals; is that correct?
A Yes.
Q Who would -- with regard to the response to those requests, where would those be sent to? Who reviewed the responses?
A Well, it was -- almost always they were reviewed by a group of people on the staff initially. That is why I am not certain whether they would usually come to my office. And I would -- I think we usually got more than one copy and I would

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keep a copy. And depending on the type of bond issue, I would give it to either our housing staff or our economic development area staff. And usually the finance director would get a copy.

So normally, there were three of us on staff that would review; it would be me and the finance director, and then either housing or economic development staff. And when I was there, I believe -- I believe almost exclusively we would get one or two board members to sit in on the oral presentations. And so I think they would get some copies of those, too; I am not certain. I don't remember.

I mean, at some point they would. I don't remember whether I would send them to them right off, or whether we would narrow it down and give them the ones that we were going to interview. I just don't recall.

Q So would you typically cull out who the agency was interested in before presenting proposals to the board of directors?

A That's what I recall. I believe that was

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the case.

Q So after you and the staff reviewed the proposals and heard the presentations, what happened next in the process for granting the underwriting contracts?

A Once we would interview and determine who we thought was best qualified, we would report that to the board of directors and then they would formally hire the group.

Q How was that presented to the board?

A I can't recall exactly whether I did it or whether the board members that sat in on the interviews did it, but it was generally done in the form of like a committee report; like we have reviewed proposals, here is what we want to do and here are the people that we interviewed, and this is the group that we think is best qualified.

Q With regard to the recommendations that were made to the board by you and the staff, were they generally accepted or --

A As I recall, yes. I mean, I know they generally were, and I'm -- I don't know if there were

exceptions or not. I just can't remember.
Q Do you recall whether the board chose underwriters other than those that were recommended by the staff?
A I don't recall whether that happened. If it happened, it wasn't very often.
Q I would like to show you a document which bears Bates stamp DKSN 027415 through 18. It is still difficult to read the Bates on the copy, but I can represent to you that's what they are. I will show it to you and your counsel. Take a moment to look at it.
MR. STRASSER: You don't have a second copy for me?
MR. O'CALLAGHAN: I am trying to minimize the Committee's costs here so I only made two copies.
MR. STRASSER: That's fine.
BY MR. O'CALLAGHAN:
Q Okay. The first question I have is, have you seen this document before?
A I don't remember ever seeing it. I notice it references financings up through 1991. And I left

the agency in -- the authority, rather, in '89, so that's probably why I haven't seen it before. I don't recall ever seeing it.
Q You mentioned earlier that there was a team of underwriters that you had to get for single family housing, and you also mentioned there was a team for multihousing. First, I should ask you if you recall what that team was?
A I believe -- I am almost certain that firm -- oh, I tell you what, okay. We didn't do but one multifamily deal. The senior manager was Merrill Lynch, and I cannot recall who all of the co-managers were. I know we had several local firms that were co-managers, and I just don't recall exactly who they were.
It was -- it was probably the same group I gave you that were single family, but I would hate -- since we only did one financing that was multifamily, my memory is just not very good about that.
Q Do you know when the teams were put together, that you referred to?
A Sometime in '83; first four, five months of

1983.
Q Before those teams were assembled, do you know how the authority chose its underwriters and co-underwriters?
A No, I really don't.
Q You have never been told?
A No.
Q Do you know if it was restricted to a certain number of underwriters?
A No, I don't have -- I don't have any recollection and I am not sure I ever knew.
Q Okay. At any time when you were at the agency, were there any underwriters that the agency wasn't willing to do business with?
A You mean any in the whole country or just in Arkansas, or --
Q We could start with Arkansas.
A I don't -- well, there were a few real small firms in Little Rock that we didn't add. And I guess there was some reason for that, but I don't know that it was -- that we wouldn't ever do business with them. I think we tried to select the firms that

we thought would give us our best coverage around the state in terms of the sales effort.
Back in the -- sometime in the '80s -- early to mid-'80s, there were a lot more firms there than there are now. And many were what we refer to as bucket shops that didn't have very good reputations and they were strictly sales-oriented, didn't have underwriters that would structure bond issues. And so we limited our involvement to firms that actually had underwriters assigned or that were employed at the firm.
And that's the main limiting factors -- those two things, coverage for sales and also having an underwriter.
Q Did either the Housing Agency or Finance Authority ever conduct due diligence with regard to the firms that were being hired to do the underwriting?
A I don't recall ever doing more than just checking references that they might have on their proposals, and reviewing their proposals. We looked -- generally we looked much more closely at

who the lead underwriters were and tried to make sure we had people that could carry the burden of putting it together, and structuring the transaction.

And the co-managers' roles were a lot less important and we put a lot less emphasis on that.

Q So to your knowledge, did the agency ever do a review of the disciplinary history of the firms involved in the underwritings?

A I don't -- I don't think we ever did. It is hard to say we never did, I just don't recall it happening. I will put it that way.

Q Did the agency have any contact with the NASD while you were there?

A Well, I didn't, but I don't know -- I can't speak for everybody else at the agency. I don't have recall having contact with the NASD while I was there.

Q How about the SEC?

A I don't recall that, either. No, I don't remember any such contact.

Q Do you know when Collins, Locke & Lasater or Lasater & Company first became involve in

underwritings with the agency?

A I believe it was when the groups were selected in the spring of '83. That's -- all I know is, for certain, is that they were a part of the -- I believe they were part of both the single family and the multifamily groups when I started work there. And my impression was that those groups were selected, you know, the first several months of '83 sometime.

Q If I have already asked this, please let me know, and if you answered it, you don't have to repeat your testimony. Do you know who was involved in the selection process for the two teams?

MR. STRASSER: I don't think he answered that. He said it was before his time.

THE WITNESS: If I didn't answer it before, my answer is I don't remember. Not that I don't remember. I didn't know who it was, or the process that was gone through. I think what you asked me was when it was done, and things like that.

I don't think you asked that question, but my answer is, I don't know. I wasn't there and I

didn't -- I don't recall ever hearing exactly how it was done.

BY MR. O'CALLAGHAN:

Q Would that generally have been a board decision?

A Yes, my -- the board would have made the final decision. Now the question was, whether they conducted interviews with the board involved or not and I just don't know. I couldn't swear that they even had interviews. They could have just taken proposals and picked it from reading the proposals. I don't know.

Q With regard to the selection of the teams, would the governor have to okay that as well?

A No.

Q While you were at the agency, did there come a time when the teams were expanded or more underwriters were added or subtracted?

A Yes, there were changes from time to time. And I just can't remember all the circumstances. I know, for instance, George K. Baum was dropped because their underwriter left that firm, and they no

longer had an underwriter. And he went over to another firm and so his firm was -- was -- where that person went, that firm was added. That might have happened after I left that, I can't remember.

Llama Company became -- it was a new company and it was added, I think, after I came -- after I left, I mean.

One deal I remember, we did a transaction where a New York bank provided -- they were what we referred to as the tender agent for a tender option bond, which was one maturity that we added to the bond issue. And because they were the tender agent, they were added as a co-manager.

I think that's why Norwest securities is in here, too. I'm sorry, Norwest Investment Services.

Q Looking at the different underwriters who were bidding on the different issuances, was the net capital of those firms ever looked at or considered?

A I think it was, particularly for the senior manager category. I'm not sure if we did for the co-managers or not. I just don't remember.

Q Who would have conducted that type of

review? How would it have been done?
A Well, normally, I believe we -- somewhere in our request for proposals, they normally gave us that kind of information, I believe. If it wasn't in there, I am not sure how it would have been done.
Q Do you recall firms ever being shut out of the process due to problems with their net capital?
A I don't remember that happening. I just don't know.
Q So the information that the agency had with regard to firm's net capital status was provided by the firms?
A I believe so. I think we asked them for their annual reports or whatever they had, I don't know what you call that. I think they have to do some kind of annual report regularly, and some of them do it up in a nice slick publication, and I know we typically had those on file.
Q While you were at the agency, did you ever hear that Lasater & Company ever experienced any problems with their net capital?
A I don't recall.

Q Is that something you would remember, normally, or --
A Well, I mean the problem is, they went out of business at some time while I was there. So it is possible that that was what I heard when they went out of business. I just don't know.
That's the main problem with them, being able to figure out what -- because since they went out of the business, a lot of things could have been mentioned to me at that point in time. I just don't know.
Q While you were at the agency and they were still doing business with the agency, were any problems with the firm ever brought to your attention?
A Well, it is pretty broad to say "any problems." I couldn't say whether there were any problems were brought to my attention, because you could pick up the paper in a given week and Merrill Lynch, PaineWebber, a lot of people have problems mentioned in the press. And it was not that unusual for people to file various kinds of complaints all

around Little Rock in those days, so I don't remember. I can't say.

Q Do you recall any specific instances where problems with Lasater & Company were brought to your attention?

A No, I don't recall specifics.

Q During the period 1983 through 1986, did you have any interaction with anyone at Collins, Locke & Lasater or Lasater & Company?

A I did. The only person I recall having interaction was with was a person named Michael Drake. He was apparently assigned to be responsible for the Housing Development Agency and ADFA account so he attended board meetings and was the person who would put together proposals, if any proposals were requested, and would be the contact for that firm.

Q So during that time period, just generally how often would you have contact with him?

A Oh, I believe it depended -- it would usually depend whether we had a bond issue that was being worked on, and in the process of being completed, I might have seen -- for instance, the

co-managers would usually have contacted me at some point, by phone or otherwise, during that process to maybe inquire about the bond issue or whatever.

But normally my contact with co-manager types like Michael Drake were at the board meetings, on a monthly basis. They would attend the board meetings.

Q Did you have any personal one-on-one contact with him?

A I don't recall whether I did or not. If I did, it was very infrequent.

Q Did you ever have any meetings or discussions with him where he was pitching his firm as possible co-underwriters?

A Probably did. He was pushy. He was always trying to pitch something to me whenever I saw him. But I recall one meeting in -- shoot, I can't -- I am afraid to say the year, but it was after I had been there a while and he had teamed up with E.F. Hutton, and maybe another firm, I can't remember. And we were about to price a bond issue -- meaning go to market with a bond issue -- that PaineWebber was

running. And he called me to a meeting -- I think it is the only time I ever went over to the building -- he called me to a meeting.

And he and some people with Hutton tried to convince me that they had some kind of new wiz-bang structure that would do things for us that the other -- that PaineWebber couldn't and that we needed to call off the PaineWebber bond issue and do that one right at the 11th hour. I think we were going to price two days later than that.

It was a very unusual meeting, is the reason I remember it. He was a co-manager with PaineWebber and normally that's not something that a co-manager is supposed to do, is go hook up with another manager and try to torpedo the deal. That's the main reason I remember the meeting.

Q Do you remember when that took place, what year?

A I believe it was '85. I am not certain.

Q Do you remember which underwriting it was in relation to?

A It was a single family bond issue.

Q Do you recall specifically which one?

A I think I do, because, as I say, it was an unusual circumstance. And I think it was in the summer of '85, and it was a large bond issue. It was the largest one we ever did, at least for single family, anyway. It was probably one of the two or three largest ever done.

And up until that time, we had never done one that large, so that was another reason it stuck out in my memory. It was a $175 million single family bond issue.

Q Did you end up staying with PaineWebber and the group that was initially set up?

A Yes.

Q Did Lasater & Company participate as co-manager with PaineWebber?

A They did.

Q Were there any specific reasons why you didn't go with the Hutton proposal?

A Well, the basic reason was that it was at the 11th hour. We had gone a long way with the proposal -- not with the proposal, with the structure

that PaineWebber had been working on for some time. You don't just cook these things up overnight. It takes a lot of legal documentation and planks to get ready to market bonds and we were just days away from marketing bonds.

And my concern -- I had two concerns. One was, I wasn't able to evaluate their proposal sufficiently, just sitting in a meeting and listening to them. And I wasn't sure I would have time to evaluate it without somehow delaying the pricing that PaineWebber wanted to conduct.

And the timing was just terrible. And that was the basic reason I didn't -- their proposed structure had some merit, but I wasn't convinced that they had actually solidified that structure. I mean, it was an idea, but I wasn't sure it was actually something that they could carry out.

Q Did anyone else attend that meeting?

A Yes, but I don't remember -- I know it was Michael Drake and probably -- I know it was people from Hutton, I don't remember how many. And I know I attended, and I believe -- I believe that our bond

counsel attended.

Q And who was that?

A It would have been someone from Wright, Lindsey & Jennings and I don't know which person it would have been from there. It would have been that firm that was represented, I believe. Because I wanted someone that was familiar with the legal documents of what we were doing to be there also. And I believe that there was an attorney that did some work for Hutton, a local attorney that did work for Hutton was there, I believe. A lady from the Mitchell firm, I think.

Q So, you stated this is a pretty unusual occurrence. Did you ever have experience with anything like this before where someone came in with a last-minute proposal?

A No.

Q Did you run this by other staff members or any members of the board?

A I don't remember. My guess is I would have -- my normal procedure would have been to mention it to the chairman of the board because the

chairman and I worked fairly closely together.
Q Who was that at the time?
A That's a good question. I don't remember. We -- at that point, I believe we changed chairmen every year. At some point later we started -- we did that every two years. So it was hard for me to remember who that would have been at that point in time. And again, this was 1985, so we acquired a new board at some time around that same period, around the summer of 1985.
Q How difficult was it for local Arkansas firms to be included in underwritings --
MR. FEUER: Michael, could I ask a few questions on that point if you are going to move off of that meeting just a few questions?
MR. O'CALLAGHAN: Yes, sure.
MR. FEUER: Thank you.
EXAMINATION
BY MR. FEUER:
Q Had the ADFA determined to use PaineWebber as the lead underwriter on the $175 million single family bond issue?

A Right. They were -- as I explained earlier, they were selected as the lead manager of that team. And in fact, I can't swear to it, but I believe, before we went to that pricing, before we got to the stage when this meeting occurred, there had been some sort of resolution passed by the board authorizing them to move forward with that specific financing.
The routine was we had this team in place, and whenever we determined we wanted to do a financing, there would be a resolution adopted stating the prospect that we expected to complete a financing in the near future and that the professionals were authorized then to move forward with that financing.
And I think sometime around '84 we had to have public hearings, what we call the TEFRA, that was the name of the Tax Act that instituted that hearing, the '84 Tax Act I believe was the TEFRA Act.
And so that -- that required that you have some type of official action indicating you expected

to do the deal. And then you would have a public hearing for any public input that might come in, and then move forward with the financing. You would be moving forward with it, but then that would be one of the steps you would have to complete before completing the financing.

So, yes, we had -- there had been more than just me calling up PaineWebber and saying I want you to do this bond issue, you know.

Q And at the meeting you described, did Michael Drake ask you to replace PaineWebber with E.F. Hutton as the lead manager for that bond issue?

A I believe he asked that -- he might not have asked that very specific question, but the whole purpose for the meeting was they had a better deal than PaineWebber's deal and we needed to do that one. And whether he said you have to replace them with us, I can't swear, but that was the purpose of the meeting, for that to occur.

Q Ultimately, did you proceed with PaineWebber as the lead underwriter on that deal?

A I did.

Q Was Michael Drake disappointed that you proceeded with PaineWebber?

A I'm sure he was, I don't know. I don't recall what he might have said to me. I think he and E.F. Hutton both were.

Q You had the impression they were both disappointed?

A I know that E.F. Hutton was. What Drake said, I don't -- I don't recall. I just recall that E.F. Hutton contacted several of my board members expressing their discontent. And I had one or two conversations with board members later, explaining to them what I saw the situation to be.

MR. FEUER: Thanks, Michael.

EXAMINATION

BY MR. O'CALLAGHAN:

Q Do you remember which board members talked to you about their contacts with E.F. Hutton being disconcerted?

A Only one I remember, because it was raised at that board meeting, and the person I recall was a member named James Branyan. And he was always a real

upfront kind of guy and he just said look, E.F. Hutton has contacted me and they told me you didn't treat them right and you should have done their transaction, and what do you have to say about that.

And I told him exactly what I had to say about it, as I recall. I don't remember exactly what I said, but other than that, I don't -- I remember -- I believe that I talked to one or two other board members separately, but it's been too long. I don't remember exactly.

Q Was he satisfied with your explanation?

A I think he was, the best I can recall.

Q With these teams of underwriters that were set up, if someone was on the team and made a proposal, a co-underwriter made a proposal to participate in an underwriting, would they generally be included in the underwriting, or was there competitive environment? How was that set up?

A Normally we just didn't have -- we didn't entertain proposals that just walked in the door more or less, is what I am saying. We normally entertained proposals whenever we had a particular

financing that we wanted to accomplish. And we would circulate requests for proposals, and then do it in an organized fashion like that.

(Recess.)

MR. O'CALLAGHAN: Back on the record.

BY MR. O'CALLAGHAN:

Q With regard to requests for proposals, how was it determined which firms would receive those?

A I don't remember exactly. We would -- we would use as a reference what we called the red book, which is a book published by the publishing company that owns the bond buyer. And I know we didn't send it to every company in the red book, but we would send to it selected people in the red book.

And I know that one rationale that we used was that we would include national firms that had local offices, usually exclusively, and then we would pick other firms that we happened to know that might be active in the particular area of finance that we were interested in doing a bond issue for.

Q But with regard to the single family mortgage revenue bonds, that was generally the same

group?
A Yes, we did not -- while I was there, we never sent out a group of requests for proposals for the single family housing group. That group is still in place.
Q Why has that stayed static versus the other?
A I don't know. That's more or less the board's position.
Q I left this earlier, but I asked you if you had any interaction with Collins, Locke & Lasater and Lasater & Company between 1983 and 1986. You mentioned contact with Michael Drake; you mentioned specifically a meeting that he had called that you had gone over to Lasater & Company's offices.
Do you remember any other specific contacts you had with Mr. Drake during that time period?
A Not specifically. You know, he attended board meetings and whenever we would complete a financing, we would generally have closing dinners and he would usually attend those. I don't recall having any other kinds of contact with him.

Q How about with anyone else at the firm?
A I don't remember whether he might have, from time to time, maybe brought another person with him to the board meeting, but I just don't remember any names. If he did, I don't know.
Q Did you have any contact with Dan Lasater during this time period?
A I don't recall ever having contact with him. I don't think I ever met the man. I am not certain. I mean, I knew what he looked like and I have seen him occasionally around town, but if I ever did meet him, it was just to shake hands and introduce myself and he himself, and I moved on, because I -- I don't recall having any kind of conversation with him.
Q Not on the phone or anything like that?
A No.
Q How about with Patsy Thomasson?
A I don't recall. Of course, I am not sure when she went to work there. I might have had some contact with her during that period, but I don't know that it would have been related to her work at

Lasater. She had been around town for a while and had other jobs, and was active in Democratic Party work, and had been on the -- I think she had been on the state highway commission, and so it is possible I did.

I don't recall having contact with her, with regard to Lasater. I don't know why. It was really not her job to do anything with me, so I don't believe so.

Q Did you meet her before you started working at the housing authority?

A I believe I did, but I can't say for certain.

Q Would that have been in connection with campaign work?

A Probably that or Democratic party conventions and things like that.

Q Did ADFA have any dealings with the State Highway Commission?

A No, no, I am just saying that's a very visible position for someone, and so she was very well known.

Q That's an important position?

A Right. It has a 10-year term, so that's one of the -- and there are only five of them.

Q Did you have any contact with anyone by the name of Tom Carter at Lasater & Company?

A I don't recall any Tom Carter.

Q Other than any lobbying efforts that Mr. Drake might have done, did anyone else ever do any lobbying to you with regard to Lasater & Company participating in bond underwritings?

A I don't recall anyone else.

Q Do you know or have you ever become aware of any lobbying done by Lasater & Company employees to members of the board of ADFA?

A No. I don't recall one way or the other. I just don't know.

Q Was that a general practice for underwriters to lobby board members to get contracts?

A Well, I am not sure what you mean by "lobby." It was common for board members to be perhaps invited to lunch, or at board meetings, underwriters would just go up and speak to board

members. It was not common for them to just walk up to a board member and say, hey, give me some business.

It was generally just a matter of trying to create a friendship and rapport and working relationship. And that was generally the context of the interchange between them, was more of a social nature than a real lobbying effort.

Q Did you ever come away with the idea that one firm did more of that kind of activity than any of the others?

A I don't -- other than that one period of time that I spoke about, about this meeting at Lasater and with E.F. Hutton, at that period of time. With that exception, no. Those two firms, during a period in and around that deal, were very active. Other than that, I don't think any one firm stood out particularly.

Q Did you attend a meeting sponsored by E.F. Hutton and Lasater in or around January of 1985 at the Legacy Hotel with regard to financing proposals by that group?

A I don't remember it. I mean, maybe if you tell me more, it might come back to my memory, but I don't remember that.

Q The meeting was attended by the governor and members of the governor's staff. Presentations were made by Hutton and Lasater.

A I just don't remember it.

Q Did underwriters make general presentations to ADFA staff members with regard to the kind of structures they would like to do or be involved in?

A Rarely. Occasionally what would happen would be maybe -- usually it was the New York firms that perhaps had done unique financing that, in their words, no one else had done and it was real proprietary. So they would sometimes go around the country meeting with people saying here is something we have done recently, maybe you should consider doing this.

Q I would like to have you take a look at a multipage document. It has a cover page, "memorandum" on it, Bill Clinton's name at the top, says "To: Gov." -- the date is 10/9/86 -- "from:

Betsey" and the subject is ADFA fact sheet. That's a three-page document. Two pages follow it which read "Arkansas Development Finance Authority bond issues 1978 to 1986."

Take a moment to review that and I will give counsel a copy as well.

THE WITNESS: Okay.

MR. STRASSER: Wait, I haven't finished yet.

BY MR. O'CALLAGHAN:

Q Actually, the cover page here says "attached is the first draft of the ADFA fact sheet which will be given to Brummet and Barton today. Definitions will be added to it, and the column for 'underwriters' counsel' will be next to the underwriters. Courtesy calls will be made by Wooten to the firms this morning telling them we're releasing it. In your meeting with Herschel Friday you should acknowledge/explain that." Have you ever seen this document before?

A I don't remember. It's been too many years.

Q Do you recall making courtesy calls to firms, informing them that a list of the underwriters was being released?

A No. What this does bring to my recollection is, that since she mentions Brummet and Barton, Brummet was with The Arkansas Gazette and Barton was with The Arkansas Democrat. And October of '86 would have been approximately a month before the 1986 election. And I recall at some point, probably around this date, which is probably why this was generated -- and my guess is that this document was generated at the agency and I had seen it, but I just don't remember. There was an issue raised in the campaign by the governor's opponent, Frank White, concerning an inordinate -- in his allegation, that there was an inordinate amount of involvement by Lasater in the bond issues that the Housing Agency had done.

And, so, this was probably generated to address that and point out who did what in what bond issues.

Q So this was -- the second two pages was

information generated by the agency?
A Probably was. I just -- I recall that we generated some information around the time that that issue was raised, and this is probably it, because it was in the newspapers. I remember specifically sitting down with this fellow, Barton, and having a fairly lengthy interview.
Q Just for clarity, do you know from who "From: Betsey" is? Do you recall?
A I assume it was Betsey Wright.
Q You don't know?
A That's the only Betsey I know that would address the governor as "gov."
Q I would like to direct you to the third page of the document, 26127, and just -- you had mentioned earlier a meeting that you had with Michael Drake with regard to $175 million single family offering. Is that --
A It would be 1985 A 175 million single family.
Q It would be the sixth underwriting listed there?

A Yes. Right.
Q So Lasater did participate in that?
A Yes.
Q Okay. I would like to direct your attention to the first page -- the second page, 26126, and with regard to the listing of the underwritings, 1978 A, which is 15 million single family underwriting. Then there's an additional nine underwritings, 1978 through 1982, which basically all utilized the firms, E.F. Hutton, Stephens T.J. Raney, with one exception, 1982 B underwriting which contains George Baum, and also 1978-79 which includes Merrill Lynch.
Do you know how those firms were selected during that time period?
A I have no idea.
Q Do you know if there is a specific point in time in the agency's history that there was an effort to expand the number of underwriters being used?
A I think in 1983 that that was the case. My -- my recollection is that Bob Nash -- when I first was hired, Bob Nash was the liaison on the

governor's staff. And he gave me a lot of background with regard to what was going on when I stepped into the job.

And I just seem to recall him saying that there was an effort to try to include more different firms in the business of the agency. But, that could have been somewhat later. But just looking at the list here, it is apparent that that was the case in '83.

Q Were you ever specifically asked to include certain underwriting firms in any bond offerings?

A Well, yes. A lot of underwriters called me and asked me to include them in underwritings.

Q Were you ever asked by anyone on the governor's staff to do that?

A I don't recall ever being asked.

Q Were any underwriting firms identified as firms that the governor's office would like to see included in underwritings?

A No. Occasionally, I got questions from board members and Bob Nash, but they were questions because they had gotten a call from somebody

complaining usually. It was not proactive but reactive type conversations, thinking they hadn't been treated fairly, and they were complaining to either a board member or somebody on the governor's staff.

Q And while you were acting as director then -- I guess, was it later president; is that right?

A Later it became president when it was the Finance Authority, right.

Q While you were acting in that position, who in the governor's office did you have contact with?

A Regularly I had contact with Bob Nash. He was the liaison that I was instructed to report to while I was in that job. In his capacity as liaison -- I think he was like special assistant for economic development or something of that nature -- he was the liaison for several different state agencies, including the Finance Authority.

Q And what type of reporting did you do to Mr. Nash?

A It was informal. Just occasionally, just

to contact him and let him know what was going on. Sometimes I would contact him just to find out what else was going on in state government, involving -- once we got into the broader role, there were things going on within state government that we needed to be involved in. And he was kind of my pipeline of information in that regard.

Q Was anyone else in the governor's office in regard to ADFA issues?

A No, it was Bob's responsibility. I believe the staff was organized in such a fashion, if anyone on the staff had input they would go to Bob, and then it would come through Bob to me.

Q Was the governor's office ever involved in a decisionmaking process with regard to choosing an underwriter?

A I don't recall them ever being while I was there.

Q With regard to bond counsel for the underwritings, how were those usually chosen?

A They were -- well, '83 through '86, I think in every case but one, they were chosen before I got

there. They were assigned to the single family financings or the multifamily financings.

And I think we did one small multifamily -- where is that little -- now I don't see. I am not certain. I am talking about from '83 forward --

Q I might be able to give you a document which might be more instructive, actually?

A Okay, yes.

Q Unfortunately, during the copying, some of the Bates number was knocked off of this, but it's a multipage document, bears -- from what I have is DKSN 02737 series. And I think it is -- I believe it starts on 27372. It is an 11-page document. It is entitled "Arkansas Development Finance Authority bond underwriters, bond counsel and special tax counsel."

Take a moment to review that generally. I will give counsel a copy, too.

MR. STRASSER: Thank you.

(Pause.)

THE WITNESS: Okay. What was the question again?

BY MR. O'CALLAGHAN:

Q The question was, with regard to how -- what criteria were used for choosing bond counsel in different underwritings.

A With regard to the ones on this list you just gave me, these bond -- the bond counsel on all these were selected when I went to work there. So I didn't select any of the bond counsel for any of these.

Q Do you know how they were selected?

A I don't. I don't -- I don't know that I ever heard. But I believe they were selected at the same time that the underwriting group was selected in the spring of 1983. And if that's the case, they were probably selected through sending out proposals -- requests for proposals. I am just not certain.

Q Just so I understand how it was set up, there were counsels that worked for the different underwriters; is that right?

A Underwriter's counsel, in addition to bond counsel, right.

Q What's the distinction between those two?

A The main distinction is their function. Bond counsel puts together what we refer to as the bond documents, the indenture. And the underwriters's counsel, in its representation of the underwriter, helps the underwriter put together its offering document, the official statement, prepares the bond purchase agreement because the underwriter enters into that contract with the issuer.

And they generally also conduct what's called a blue sky survey to see what the various state securities laws are and whether the bonds can be offered in the states that the underwriter wants to offer the bonds.

And so their role is one of representing the underwriter in whatever it is the underwriter has do in its efforts to underwriting bonds and marketing them.

Q So bond counsel would be hired by the authority?

A Right.

Q Underwriter's counsel?

A Would be hired by the underwriter.

Q Were other counsel involved, like representing the authority in other norm --

A As you will note on this, it is call special tax counsel. That designation or that counsel was generally used for single family bonds. I don't recall using the special -- that special tax has been used for other kind of bond issues. Single family mortgage revenue bonds are very complicated from the tax standpoint. From the rules that Congress has adopted that control mortgage revenue bonds, they are very much more complicated than, say, issuing a sewer bonds or a water bond.

And that expertise is found more so in larger law firms that do a lot of that kind of work, and so, as the tax laws got more complicated throughout the early '80s when I came to the authority, they had determined to use a special tax counsel -- Webster and Sheffield was the first one -- to perform that narrow function of making sure that all the various tax requirements were met, in addition to the bond counsel just putting together the normal documentation for the bonds.

Q And do the board of directors choose the special tax counsel and the bond counsel, also?

A Right.

Q Was there any counsel used just by the authority in general to represent them?

A Rarely. There were a few cases, whenever it was a financing that involved a lot of different borrowing in a pool type finance thing -- which meant that we had an ongoing program, not just we closed the bonds and that's the only thing we need a lawyer for -- we would occasionally -- I recall doing it may be two or three times, later in my tenure there when we got into a lot of other kinds of financings, but it was not normal.

I am a lawyer and most of the legal issues that arose that I felt the authority might need advice or counsel on, I was able to understand those issues and take care of it.

Q Were there ever any groups, underwriting groups that were added to -- or underwriting companies that were added to underwriting groups that didn't submit proposals?

A I mentioned one that I recalled was the Norwest Bank involvement, and I think Chase Manhattan Bank, and maybe Citicorp got included without a formal proposal because they were involved as tender option agents with regard to the particular bonds issues and would handle the remarketing of bonds that were tendered to them.

Those are the three that I remember.

Q Do you know if Lasater & Company was ever involved in anything like that?

A I don't recall while I was there, because I think -- I am almost certain when I started in September of 1983, they were already a part of the single family and the multifamily group, so I don't know what else they could have done. I mean, other than that meeting I was telling you about, that I attended where they were -- I guess you could call that a proposal.

Q Were there any other bond offerings that Lasater & Company made proposals to become members of that they weren't included in?

A Well, I can't remember when they went out

of business is my problem. See, because up until we became the finance authority, which is -- I don't remember -- whether we did anything but housing almost all the way through '85, so they were involved in all of those. And I don't remember how long after we solicited proposals for other kinds of financings, they were in business. They probably were not included in some, but I just can't say for certainty.

But at the same time, it was real normal. So we selected Goldman Sachs or Merrill Lynch or whatever, to do a particular kind of financing as senior. Lasater was a part of what we called our local group, and they normally were included in some role. It is possible that they didn't get included in the role that they wanted to be, which might have been senior manager or something.

Q Do you have a recollection whether any of the local firms that were included in that group were ever shut out from an underwriting for any reason, or were they usually included if they applied for it?

A They were usually included. I mean,

this -- from the time I got there in '83, through the list that you showed me, the three-page list earlier, I think, I believe it had the same local group throughout all that. I don't believe it changed.

Q Was the authority involved in issuing any private activity bonds while you were there?

A Yes.

Q How did those differ from the dealer types of underwritings that were going on, or issuances?

A Well, all housing bonds are private activity bonds. And the best description I can give you is that private activity bonds are ones which permit the proceeds of the bonds to be used by private individuals and not governments. So if you have a mortgage revenue bond and it is for the purpose of financing home loans for individuals, then those private individuals are accessing those funds and so the bonds are characterized as private activity bonds.

We issued multifamily housing bonds which are private activity bonds. And later, after -- I believe it was in '86, we issued some industrial

development revenue bonds that are private activity bonds, also. And those are the three fairly most common categories of private activity bonds.

Q Was the authority always authorized to issue industrial revenue bonds?

A No, that became part of our powers as a result of the 1985 Act, which created the Development Finance Authority.

Q Do you recall what the fee structures were for the different underwriters in the offerings. How they were paid, what percentages or --

A No. I really don't. I think they -- they might have changed from time to time. I just -- it is too hard to remember all of that.

MR. O'CALLAGHAN: Why don't we go off the record for a second.

(Discussion off the record.)

(Whereupon, at 12:55 p.m., the deposition was recessed, to be reconvened at 2:00 p.m. this same day.)

AFTERNOON SESSION (2:10 p.m.)

Whereupon,

S. WOOTEN EPES

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

EXAMINATION (Continued)

BY MR. O'CALLAGHAN:

Q I would like to show you a two-page document. It does not have a Bates stamp on it. It was provided to the Committee -- it is on Stephens, Inc. letterhead, dated April 28, 1983, addressed to Charles Stout, and it is signed by Gene Wilbourn, vice president.

And I will have you take a look at that letter and read through it, and let me know when you have had a chance to finish it.

(Pause.)

The letter I just referred you to dated April 28, 1983, does that predate your appointment --

A Yes.

Q -- your hiring at AHDA?

A Yes, the day I started work was September

15 of 1983.

Q Who was your predecessor?

A When I took over there was a -- I should say acting director, and I believe the predecessor was the lady named at the bottom of this, cc on the bottom, Linda Trent.

Q Have you ever seen this letter before?

A No, never seen it.

Q I am going to direct your attention to the fifth paragraph of the letter.

It reads, "In the meantime, subsequent to our selection, the board decided without discussion to add to the underwriting group a firm which did not submit a proposal under the agency proposal procedures, which invited individual firm proposals.

It then continues "although it is certainly the agency's privilege to appoint any firm, we would invite you to investigate more carefully whether the added company meets the standards of capital, experience, sales capability, staff service and market support, which have been the preference of the board in all previous issues."

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The next paragraph, which continues on the next page, reads "we are concerned that such actions may be an indication of an erosion of the independence of the board of directors, which if publicly perceived can only be received adversely in the market."

The concerns expressed in the letter I just read, were they ever relayed to you regarding any of the underwritings that were done by the agency?

A No, not -- are you saying the concerns of this letter, communicated to me or were any similar concerns --

Q First the concerns in the letter.

A No, never.

Q How about similar concerns?

A Well, from time to time underwriters would take potshots at their competition, and I don't recall the whole string of concerns like these. Usually they were saying they were more capable than another firm and I should pick one over another; that they had more experience or could sell a particular type of bond better than another firm.

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The tone of this letter seems to be that this firm they are referring to is generally substandard. So that's why I am saying it is a little different than what I usually heard.

Q While you were director, did you ever hear of any accusations that the independence of the board of directors was being eroded, in any way, shape or form?

A No, I don't recall hearing that. I guess you need to ask Gene Wilbourn what he meant by all of that.

Q But just generally, from your experience, you don't recall that ever being the case?

A No.

Q Were there any specific requirements for final closing of a bond issuance that you are aware of, any documentation need to be taken care of?

A Yes, they were normally spelled out in the bond purchase agreement. And if they weren't spelled out in the bond purchase agreement, then they were normally, either verbally or in writing, put in the form of a closing memorandum, or a closing index,

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that bond counsel would require.
Generally, the two players in a transaction that are interested in certain things being done as a condition of closing are the bond counsel because they sign an opinion stating that the bonds are valid, binding and enforceable and everything that needs to happen in order to make them valid, binding and enforceable has occurred; and the other party would be the underwriter wanting to make certain not only the bond counsel representation has been taken properly but there would be other things they might want to see additionally. And it would vary somewhat from deal to deal so it is not like you have a boilerplate list every time you close a bond issue.
Q Were you ever required to sign bond purchase agreements as president of the authority?
A I think I usually signed them. If not, it was the chairman. One or the other.
Q Was it ever both?
A Probably -- might have been, yes. It could have been the chairman and then -- I was secretary of the board of directors, so I would have attested to

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the chairman's signature.
Q When did you become secretary of the board?
A It was part of the -- from the day I got hired. That was just the way it was structured in the statute.
Q Did you -- so you had a position on the board of directors?
A Yes, it was nonvoting.
Q Did you attend a board of directors meeting when a vote took place on which underwriting firms to hire?
A Yes, I did.
Q Did any members of the governor's staff attend those meetings?
A Not regularly. There might have been a few cases, a few instances, but right offhand I don't remember.
Q Were these public meetings or were those private meetings?
A Yes, they were all public meetings. The only purpose for which we could have a closed meeting

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was to discuss personnel matters, in executive session. And once the authority established a guarantee program in which we guaranteed bonds of industrial borrowers. We were authorized to go into executive session to talk about their credit so that it wouldn't be distributed publicly, and there was a specific statutory limitation about that.

Q Did you have any other more specific duties as secretary?

A No. It was fairly much just being the signatory to attest to the chairman's signature, and my personal secretary or my staff secretary prepared the minutes of the board meetings. And I was responsible for getting those prepared and disseminated for the next board meeting.

Q Generally, how does one become a member of the ADFA board?

A It is a -- an appointment by the governor. The state has set up some requirements that limited -- and right now it's been so long I can't remember.

My recollection is that they were supposed

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to have a member from each Congressional district, and a member that was a farmer, and a member that was elderly. And in recent years, they have named the state treasurer as an ex officio member. The Department of Finance and Administration director is an ex officio. They are both voting ex officio members.

So there are some categories like that, but, other than that, the other board members are just subject to the governor's discretion.

Q Other requirements are made by the governor other than the ones you just mentioned?

A Yes.

Q Are there -- other than the regional requirements, are there any other requirements for board members?

A As I said, I believe there is an elderly member and an agricultural member. That's all I recall.

Q Between 1983 and 1986, did you participate in the appointment process for the board?

A I don't recall participating in it. In

1985, when the Housing Development Agency was -- what was it -- they were merged into or through -- Financial Authority became their successor. The board composition was changed at that point. I don't recall having input with regard to who the new board members would be.

It is possible I had some input with regard to the members that were on the old board, and perhaps made some suggestions about keeping the old board on, or something like that. But other than that one point in time, I was not -- I was not consulted with regard to who the board members would be.

Q But you were consulted about information about members who had already served on the board?

A I don't know if I was consulted. I said I might have put forth some suggestions on my own. I don't believe I was consulted.

Q Well, this might help. It is a multipage documents Bates stamped DKSN 026505 through 509. It is a multipage document.

Let me know when you have had a chance to

look at it.

(Pause.)

A Okay.

Q Just for the record, the cover page is "Office of the Governor Memorandum," to Bill Clinton, dated April 22, 1985, from Bob/Susan, "subject: ADFA board appointments."

The first question is, have you ever seen this document before?

A I don't remember ever seeing it.

Q Have you seen the information that's contained on the last four pages in that form before?

A I don't remember seeing any of it before.

Q Okay. The text of the cover memo reads "attached you will find a list of all the AHDA board minutes, Wooten's comments on the old board members."

Then the four pages that follow have a list of names and addresses on the first two pages, and then there is a list of names and comments next to those on the last two pages.

Looking at this document, does that refresh

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your recollection as to whether you were consulted by the governor's office about board members or possible appointments?

A It doesn't refresh my recollection, but it seems to mention that I had a conversation or two about some of the old board members. The references relate to, I think, two or three of the old board members. And it's reasonable to believe that, if asked questions about the old board, I gave my opinions about their level of activity on the old board.

Q Did you ever seek to have any input as to what individuals might be named to the board?

A As I said, I don't recall. It would have been normal for me to make conversation -- have a conversation with Bob Nash, and make comments about people that I had served with.

At that time, the concern was that the Finance Authority had been created as a very broad-based, much more active authority, and the emphasis was on that. We wanted to have a board of directors that would be representative of business

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communities as well as just housing, and that we have board members who would be independent and well respected throughout the state.

So, it was a shift in emphasis from one type of agency to another. And during the legislative process that was an issue among legislators when the legislation was being proposed, that they wanted to see something like that also. So for a period of time around the creation of the finance authority, the composition of the board was a general topic. It wasn't as much specific names that we talked about, as much as it was that we needed to have real strong, independent people to be on that board.

Q Directing your attention to the second page, Bates stamped 26506, do you recognize any of the handwriting that appears on the page?

A Well, if I had to guess, I would say it was Bill Clinton's handwriting.

Q But you don't have a specific -- you can't identify it?

A As I say, I cannot positively identify it,

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but it certainly resembles his handwriting.
Q You are familiar with his handwriting?
A Somewhat. I mean, it is fairly distinctive.
Q Okay. You mentioned earlier there was a desire to have strong, independent people named to the board once the agency became ADFA; is that right?
A Yes.
Q This is a question which is eliciting your opinion. Having been a member of the board, ex officio for a while and the president, with regard to the people that were named to the board, was it your opinion that they were strong, independent people that were named to it?
A It was. I thought it was a very good board.
Q Page 26508, take a look at that. Next to the comment for Margaret Davenport, "served since August '83, has missed several meetings because of demands at work. Wooten is concerned about ability to spend more time on board matters."
Do you remember expressing that concern?

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A I don't remember it.
Q Did you ever have that concern with regard to Ms. Davenport's participation on board matters?
A As I say, I don't remember it, but if it is written down here I probably did. It's been too many years. I do recall that when she -- after she served, got appointed, and most of the time that I was there, she took a -- seemed to take a renewed interest because the focus of the activities got to be more of a banking type activity.
As I said, we had private sessions, executive sessions, where we talked about credits of businesses and things that were much more banking oriented, and I think she took more of an interest in that type of function once the scope of the agency expanded.
Q Other than the references made on the cover page of this document, do you have any other recollection of people from the governor's office seeking your counsel or advice as to whether people were appropriate board members?
A I really don't. I have some recollection

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that most of the new people that were named to the board, I was never consulted about. Not most of them. I don't remember being consulted about any of the new members of the board, and had very limited knowledge, before they were actually announced, as to who they would be.

Q Okay. I would like to direct your attention to the second page of the document. Halfway down there is a name that says "Troy Burris," slashed through that, and to the side of it, there is a notation "Jim Tombell," or "Jay Tombell."

Are you familiar with anyone by that name? Who is Jay Tombell?

A There was a Jim Tombell, so apparently you know who he is. He was an employee -- he was in the mortgage banking business, and he worked at First Commercial Bank for a while, and then he went to Simmons First National Bank, mortgage company. In each case he was head of the mortgage companies in both of those. And at this point in time, I am not sure which bank he worked for, but I think he was still at First Commercial in April of '85.

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Q And did you work with him, as -- while he was a board member of ADFA?

A He never was a board member.

Q He wasn't?

A No. That's why I was kind of curious when I saw his name there. I had never seen that before.

Q So you didn't have any previous knowledge that he had been proposed as a board member?

A No, that's the first I knew about it.

Q With regard to any of the board members that served with you while you were at ADFA, were you aware whether any of those people had been recommended by Dan Lasater?

A No.

Q Were they recommended to the governor by Dan Lasater?

A I have no idea whether there were or there were not. I don't recall having any knowledge of who recommended any of these people.

Q Did anyone from Lasater & Company approach you with ideas for who they thought would be good board members?

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A No. I don't recall it. Until I saw this I also don't recall Charlie Crow Stephens.

MR. FEUER: Does that document suggest to you that someone from Stephens did have input into this? Is that the conclusion you draw from that entry on page 26505?

THE WITNESS: It seems to say there are -- it says "a list of possibilities from Charlie Crow Stevens." And flipping through here, I don't see a separate list, so I don't know what happened to that list. It doesn't seem to be here.

BY MR. O'CALLAGHAN:

Q You have no way of knowing other than what you just read?

A That's right. Typically, there was a person on the governor's staff who was in charge of appointments to boards and commissions, that pretty much rode herd over all of that. And I don't happen to remember who that was at the time, but I was not normally consulted.

And as I said, I don't -- I don't believe I had much advance notice before this board was

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actually appointed. They had a lot of appointments to handle up there and sometimes they got behind.

Q Looking at the top of the first page, it is from Bob and Susan. Does that help refresh your recollection who was doing the appointments?

A Susan was Bob's assistant.

Q Okay. Do you know her last name?

A Smith was her last name, and it is now -- I can't remember her married name. She doesn't live in Arkansas anymore. I haven't seen her in a while.

Q Did you have any conversations with anyone at all from Lasater & Company with regard to appointments to the ADFA board?

A I don't recall having any. I just didn't talk to Michael Drake very often, and it's very unlikely that I had any such conversation, but I don't remember any.

Q Did Bob Nash tell you about any conversations he might have had with people at Lasater?

A I don't recall.

Q Did you ever have conversations with a

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person by the name of Bob Moudy at Lasater & Company?
A No. Dan Moudy.
Q Is it Moudy?
A I don't remember. I remember meeting -- I knew who he was before I went there. I remember him attending a closing dinner once. And that was -- I believe that was the first time I realized he even worked there. And he had been a -- I had served on the constitutional convention, I was a delegate to the constitutional convention in '79 and '80, and he was also, from Benton, Arkansas, and had law practice down there. And he showed up from Lasater at that closing. And that's the first time I knew he worked there, and I don't know how long he stayed.
Q Were you ever contacted by anyone at the White House with regard to your tenure at ADFA and any associations with Lasater & Company?
MR. FEUER: Do we have a time period on that?
BY MR. O'CALLAGHAN:
Q Any time at all. If there is more than one, we can narrow it down.

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A Let me think. I believe I had one conversation with -- or maybe two. What I recall is that I received a call from the press asking something about Lasater and ADFA and -- wanting to know how he got hired and things like that. And I told them basically what I told you, I wasn't there. And my recollection is that I called Bruce Lindsey to say that the press was calling to inquire about Lasater. And I think -- I think I missed him when I called and I left a message, and I believe he called me back. And that's all I seem to recall about it.
Q When did that take place?
A I don't know for certain. It's been a while, so if I had to guess, it had to be after January '93 because that's when they took office and this is '96, so sometime between '93 and now. And it hasn't been in the last year, so -- I don't know -- between January '93 and last January. I just don't remember. It's been a while.
Q You don't recall when the press called you?
A No. As I say, it's been long enough so that I can't recall when it was. I am using my logic

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to tell me it had to be after January '93 and I know it was not in the past calendar year, so it could have been '93, '94 probably. I don't remember.
Q Who was the press person that called you?
A I do not recall.
Q Do you recall the --
A I think it was someone out of state, but that's all I can say.
Q Do you know if it was newspaper, television, magazine?
A I doubt if it was television, because I usually -- I don't recall getting phone calls from television people. So it would have been print media of some type.
Q Where were you working at the time?
A I was working where I am now.
Q At the law firm?
A Yes.
Q And how long was the conversation with the news media person?
A I don't remember. I don't recall that it was a long conversation, because I didn't have a

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whole lot to say.
Q And how did you come to call Bruce Lindsey?
A I called him because he was one of the few people I knew in the White House, and I thought that they needed to know that the press was digging into the connections between Dan Lasater and the President.
Q Did you ever have a conversation with him about this subject?
A "Him" who?
Q Mr. Lindsey.
A Yes, I believe he called me back to answer my call, and I told him what was going on. And that's all I recall.
Q Do you recall how long that conversation was?
A Not very long.
Q More than 10 minutes; less than 10 minutes; five minutes?
A I don't know.
Q Did anyone else participate in the call?
A I don't recall anyone else. I seem -- all

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I recall was that he returned my call and I conveyed the message about the press call. And that was about it.

Q I would like to have you take a look at a document which bears Bates stamps S 012389, and S 012390, appears to be copies of handwritten notes. The front page has clearly marked paper which says the White House on -- it is hard to read. This is the way they were produced.

After you have had a chance to look at it, I will direct your attention to specific portion where you can try to decipher what's written, what's referenced.

A Good handwriting, isn't it?

(Pause.)

Q Do you recognize the handwriting that appears in this document?

A I do not.

Q Are you familiar with Bruce Lindsey's handwriting?

A I am not.

Q You are not, okay.

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Do you recall what your phone number was at the time you talk to Mr. Lindsey?

A Same thing it is now, 501-376-9208.

Q I know it is very difficult to read this.

A Looks like that there, but I couldn't swear to it.

Q On the front page?

A Looks like a 92 and then the other numbers I can't see, on the left-hand side under what looks to be my name.

Q After looking through these notes, which I understand are difficult to read, has this helped refresh your recollection as to specifics of the conversation you had with Mr. Lindsey?

A The only thing that refreshes my recollection about it is that the person who called me is this Mark -- I am not sure if that's the right spelling -- Mike Hosenball, something like that, I believe that was the person that called me to ask me the questions about Lasater.

Q Was this the press person that you referred to?

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A I think so. That name -- I have heard that name, and then it appears over here on the left as if -- underneath that is Newsweek and maybe that's who he was with. I still can't remember that, and I am guessing actually, but I just -- I think that's probably.

MR. STRASSER: Do I take it you're telling us these are Lindsey's notes?

MR. O'CALLAGHAN: No. I am not making that representation. I am just asking.

THE WITNESS: You asked me if I recognized his handwriting.

MR. STRASSER: He told you no. And you have asked him if this refreshes his recollection as to the content of his conversation with Mr. Lindsey.

MR. O'CALLAGHAN: Correct.

MR. STRASSER: Okay, okay.

BY MR. O'CALLAGHAN:

Q Are you familiar with the name Larry Nichols?

A I wish I weren't. Yes, I am.

Q On the first page of this document, it

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appears to be the last line of the column, denoted page 3, appears to be a name that looks like Larry Nichols to me.

A Yes, could be.

Q Do you know if you had any discussions with Mr. Lindsey about Larry Nichols when you talked to him?

A I don't know. I -- I could have. Larry Nichols has created a lot of problems for me in the past. He could have been stirring up this problem. I just don't know.

Q On the left-hand corner in the first page, far corner after the first portion appears to be a portion that says ADFA, that's underlined. And then it appears -- looking at these notes -- once again, I realize it is difficult -- looks like it says "securities department bad" and then "sanctioned," and then says "dealings by," and then some hard-to-read words, and then it says "Lasater."

Looking at that, does that refresh your recollection as to whether you had any conversations about any sanction that occurred at Lasater?

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A I believe that the person calling, as I said, was asking me about how Lasater got hired, and mentioned some state securities department complaints -- I don't remember exact sanctions or whatever -- that arose at some point during the period from '83 to '86. And asked me what I knew about them, and I didn't know anything about them. I think that's -- I think that was part of the inquiry from that person.

Q Have you since learned of any sanctions or any action brought by a state securities department against Lasater & Company?

A No.

Q Were you aware at any time that a Roger Clinton was employed by Mr. Lasater?

A No.

Q That never came to your attention?

MR. STRASSER: Are you representing that it is true?

MR. O'CALLAGHAN: Yes, I can do that, yes.

THE WITNESS: I don't -- I might have -- I am trying to remember now.

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At some time -- I don't know if I ever knew he worked for Lasater -- I knew that he was involved with him and that criminal charges against Lasater, it was rumored, resulted from some information Roger gave to the authorities. But I am not sure I ever knew he worked for Lasater or not. I don't know that.

BY MR. O'CALLAGHAN:

Q You don't know if you ever heard that?

A He didn't seem to work anywhere very long.

Q Did you know him personally?

A I met him a few times. I certainly wouldn't call myself an acquaintance or friend. I met him maybe once or twice, at the governor's mansion, or party or social event or something.

Q Did you have any conversation with him with regard to his relationship with Dan Lasater?

A No. I don't recall having any conversations with Roger other than hi, how are you.

Q You said that you were aware that he was associated with criminal charges that were brought against Lasater, or might have been?

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A Rumor.
MR. FEUER: I would point out at this point that criminal charges involving Mr. Lasater are not within the scope of the resolution unless they in some way relate to bond underwriting contracts between Lasater & Company and the ADFA, which is the only subject matter this Committee has been authorized to investigate.
MR. O'CALLAGHAN: That's my next follow-up question.
BY MR. O'CALLAGHAN:
Q So, with regard to what you heard about that, was that during your time as director of the agency?
A It might have been during my time. I can't recall when it was. But the charges to which I am referring had nothing to do with the agency or Dan Lasater's securities business. It was his own personal problems.
Q Would those problems have affected Lasater & Company's ability to do business with ADFA?
A The business closed. He couldn't operate

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it anymore, so --
Q When did you first learn that Mr. Lasater might have been involve in criminal activity?
MR. STRASSER: Why don't you explain to me what this has to do with the scope of the resolution?
MR. O'CALLAGHAN: The scope of the resolution is the business of Lasater & Company and people employed by them doing business with the agency.
MR. STRASSER: He just told you he had nothing to do with that. So now explain to me how it is connected to your resolution. Should we look at the exact words? It is underwriting contracts between Lasater & Company and ADFA, and Mr. Epes just told you -- the bond underwriting contracts between Arkansas Development Finance Authority and Lasater & Company, that's the scope of permissible inquiry.
Mr. Epes just told you there is no connection between Mr. Lasater's criminal charges and ADFA business, so do you want to explain to me the relevance of this inquiry?

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MR. O'CALLAGHAN: The relevance is whether anyone involved with the function of the agency and the granting of the underwriting contract was aware that -- could have been aware that Mr. Lasater was involved in criminal conduct which could have had a direct bearing on his ability to do business with the authority, and the propriety of the authority doing business with the company.

MR. STRASSER: That's not the question you asked him, what you just asked. If you want to ask him that, go right ahead. You want to ask him if he was aware of it at the time when he could have made the decision whether Lasater got business, go right ahead.

BY MR. O'CALLAGHAN:

Q I was asking when you first became aware of it.

MR. STRASSER: No, no.

MR. O'CALLAGHAN: I don't see -- that lays a predicate foundation for his knowledge of when he found out about it and I will ask him when he was aware other people were aware of it. As a member of

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the authority, it is relevant.

MR. STRASSER: Go ahead, ask your question.

THE WITNESS: I can't tell you the date. He was indicted at some point, and that's when I became aware of it.

BY MR. O'CALLAGHAN:

Q That was the first time?

A Yes.

Q Are you aware whether any members of the board became aware of any possible criminal activity involving Mr. Lasater previous to his indictment?

A I am not aware.

Q How about with regard to anyone in the governor's office?

A I am not aware of what anyone else knew.

Q Did there ever come a time when the authority decided not to engage in business with Lasater & Company, other than through the function of them -- the company ceasing to exist?

A That's what I recall happened. It's been so long, I don't know whether it was when the company

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ceased to exist, or -- I believe even perhaps the company was sold, someone else took it over. And it was no longer Lasater & Company. It might have happened, I can't remember the sequence of events which terminated that relationship, I don't know.

Q Did you ever read any reports in and around February of 1985 that there was testimony given during the trial of a man named Sam Anderson, the testimony was given that Mr. Lasater was involved in using cocaine and was under investigation by a joint state/federal crime task force?

A I don't recall.

Q Was that ever a subject of discussion with any of the staff members of the authority or the board that you have heard of?

A I don't recall.

Q I would like to show you a one-page document, bears Bates stamp DKSN 01310. It appears to be a page from an appointment book dated December 19, 1985, Thursday. Let me give you the one with the highlighted portion on it.

I will give you a chance to look at it --

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MR. STRASSER: You want to talk to me about this.

THE WITNESS: Yes.

MR. STRASSER: He wants to speak to me.

MR. O'CALLAGHAN: Sure. Off the record.

(Witness conferred with counsel.)

MR. O'CALLAGHAN: Back on the record.

BY MR. O'CALLAGHAN:

Q I just showed you a document, a one-page document, which is a -- it is a page out of Governor Clinton's appointment book from December 19, 1985 and then the entry marked 3:00 appointment with Wooten Epes, George Wright and Mary Davenport and " Nash."

First of all, have you seen this document before?

A No.

Q Do you recall having a meeting with the governor and the people listed in this document?

A I really don't. I could have had the meeting, but I just don't recall it.

Q Do you recall, in or around December of 1985, meeting personally with the governor?

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A No.
Q Could you estimate how many times you personally met with the governor?
MR. STRASSER: Between when and when?
MR. O'CALLAGHAN: '83 through '86.
MR. STRASSER: About something connected with ADFA?
MR. O'CALLAGHAN: Any time.
MR. STRASSER: Then I object to the relevance of the question.
MR. O'CALLAGHAN: I am trying to help him place in time when he met with the governor, and then from there, whether it was and ADFA meeting. I won't limit it if he doesn't have a specific recollection at the moment.
MR. STRASSER: You have a limited scope you can investigate.
MR. O'CALLAGHAN: I can inquire as to the meetings he had with Governor Clinton while he was director of ADFA.
MR. STRASSER: I don't think you can.
MR. O'CALLAGHAN: I will direct the witness

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to answer the question.
MR. STRASSER: You are not going to direct him to do anything.
MR. O'CALLAGHAN: If you have a strong objection to the question of how many times he personally met with Governor Clinton between 1983 and 1986, and you want to take it to the Chairman, we can do that. We can bring him back up here for deposition if you want to sustain the proceeding for right now. If you want to, consult with your client as to whether that's a worthwhile objection you want to make.
MR. STRASSER: You can ask him the question how many times he met personally with Clinton between 1983 and 1986. That particular question I won't object to.
THE WITNESS: I don't recall.
BY MR. O'CALLAGHAN:
Q Do you know if it was more than 10 times?
A I don't know.
Q Any idea whatsoever?
A It was not daily and it was not monthly.

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Other than that, I con tell you.
Q Do you have a specific recollection of when you met with -- or whether you met with Mr. Clinton with George Wright and Mary Davenport?
A No. As I said, I just don't have any recollection of this. It could have happened or maybe it was canceled or whatever, I just don't know. I don't have any recollection of it. I'm sorry.
Q Would it be unusual for you to have a personal appointment with the governor; was this something that happened fairly frequently?
A It didn't happen very frequently, so -- that's --
Q I will restrict it to the year 1985. Do you recall whether you had numerous meetings with Mr. Clinton?
A No. I seem -- I don't recall ever having numerous meetings with the governor. I mean, that's all I can say. I just have no recollection whatsoever on December 19, 1985, having a meeting with George Wright, Ms. Davenport, Bob Nash, and the

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governor. I just don't. Can't recall it. Sorry. It's only been 11 years.
Q I understand it has been a long period of time. I am just trying to help you --
A I'm sorry --
Q -- remember.
A -- can't bring it back.
Q Do you recall whether you met with him more than once during the year of 1985?
A Yes, I would have. I can recall a couple of times earlier in that year, during the legislative session when the ADFA legislation was coming up.
Q Do you remember -- does it help you remember whether or not you met him with any time near Christmas?
A No. I just -- I'm sorry, I am blank on all that. I just can't. It doesn't ring a bell.
Q Okay, thank you.
A It is not uncommon for meetings to get canceled, either. So I am not sure it happened.
Q Do you have any knowledge of whether any ADFA staff members maintained accounts at Lasater &

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Company?
A No. I have no knowledge.
Q Whether or not any board members maintained securities accounts at Lasater & Company?
A No knowledge.
Q Did you maintain any securities accounts at Lasater & Company?
A No.
Q I would like to have you take a look at a multipage document, four-page document, which the front page reads "in the opinion of bond counsel/special tax counsel under existing laws, regulations and judicial decisions, interest on the bonds is exempt from present federal income taxes. In the opinion of bond counsel under existing laws, regulations, rulings and judicial decisions, interest on the bonds is exempt from income taxes of the state of Arkansas. New issue $72,500,000 Arkansas Development Financial Authority variable rate demand revenue bonds (Higher Education Capital Asset Program) 1985 Series A."
And there is a highlighted portion I want

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to ask you about, I believe it appears on the second page of your copy. The question I meant to ask you earlier, I want to get back to it.
Let me also give you this. This is another multipage document, the general text is over 73 pages and it has some attachments with it. It appears to be a prospectus for -- reads "re: Offering of bonds originally issued on December 30, 1985," says "$72,500,000 Arkansas Development Finance Authority variable rate demand left new bonds" and again "(Higher Education Capital Asset Program) 1985 Series A." I am not going to ask you anything about the contents, other than general questions.
MR. STRASSER: You just handed him something that is a hundred pages long, and I will let you go ahead and ask questions about it, but if you are asking him anything about anything it says in here, then I will insist that he read every word of it.
MR. O'CALLAGHAN: That's no problem.
BY MR. O'CALLAGHAN:
Q The first question I have with regard to

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the first document I showed you, the four-page document, the highlighted portion of it, that's really about how the counsels were set up, special tax counsel and bond counsel. And in the last paragraph of the second page, it reads "In addition, certain matters will be passed upon for the authority by its counsel, the Rose Law Firm."

And I just wanted to know if that was a different kind of counsel that we haven't previously identified.

A Yes, I think -- I think you asked me once earlier, was it normal to have separate counsel for the authority, and I said, no, except in certain cases where we might have a pool of borrowers or a number of different transactions, which might need to be carried on into the future. And that's the situation here.

This is Higher Ed Capital Asset Program in which we had a pool of money which higher education institutions throughout the state could borrow from. And so, for a period of time -- I can't recall exactly whether it was two years or three years --

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there was a loan program, in which we could make loans to higher ed institutions, and we felt like we needed our own counsel for that purpose, during that term.

Q Okay. And was this an underwriting that involved Lasater & Company? That's why I showed you the prospectus.

A Apparently it was.

Q They are listed on the prospectus; is that right?

A Yes.

MR. STRASSER: Excuse me. The link between the two of them, is -- how can you tell that this first document is connected to this? Are you telling us that you say it is?

MR. O'CALLAGHAN: I am not telling you anything. I can ask whether it is.

THE WITNESS: Apparently it is. It is the same caption.

BY MR. O'CALLAGHAN:

Q Do you have any reason to believe it is not the same?

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A No, I think it's the same. We only did one higher ed capital asset program.
Q Was this also the offering you identified earlier that Mr. Drake approached you on?
A No. That was the $175 million single family housing bond deal that was earlier in that year. This is December, I believe. Well, yes, okay, it was originally in December and then we reoffered it in 86.
Q With regard to hiring counsel for the authority, was that done by the board or was that done by the underwriters?
A I believe the board did it.
Q What criteria would be used for doing that?
A I don't remember.
Q Did you have one firm that the board usually used for that?
A No, we didn't because we did it very rarely. I only recall, while I was there, doing it may be one or two other times; I think maybe two other bond issues where we had a similar type situation where we had a loan pool, and we needed

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counsel to help us close our loans, on a regular basis. So, it was unusual; it wasn't normally done. And I recall one other -- the other one I can recall, had a different counsel. I believe it was Williams & Anderson -- I'm sorry, it would have been Wright, Lindsey & Jennings. Then someone left -- Mr. Williams left that firm and formed his own firm later.
Q Did underwriters make suggestions as to what counsel should be hired by the authority with regard to --
A No. Their main interest was that we needed to have nationally recognized bond counsel. And occasionally, if it were a complicated transaction, they might suggest that we needed separate special tax counsel. And they wouldn't normally say who it should be, but they would say this is a complicated deal, we don't know that your local counsel has tax expertise, you need to bring in a special tax counsel.
Q Thanks. Did the authority enter into remarketing agreements --

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A Yes. A remarketing agreement involves a different type of bond issue than a typical one where you just have a closing and the bonds are sold to the final owners, and they are put away and you don't have to remarket them again.

Occasionally bonds would be issued and held in short-term securities, and then remarketed a long time later, such that we would do an offering of a size and we would need a certain portion of it when we initially offered it. And then other portions of it were held in short-term securities. Such that whenever we needed those bonds later, we would remarket them and access them on a permanent basis, later.

Q Excuse my ignorance. Can you explain how they were held in short-term securities, what that means?

A Yes. Well, I need to do it in the way of an example, like a single family housing bond issue.

You could issue $50 million today, 20 million of it would be marketed long term, and we would access those funds to make loans out of. The

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other 30 million would be marketed as short-term securities, maybe six months, such that six months later, we would have used our 20 million, and we would have another 30 that we would then remarket long term and use that money for home loans. And it was just a more efficient way of doing larger bond issues, instead of doing a bunch of little ones.

MR. FEUER: In other words, would the $50 million of bonds, in your example, have different maturities, and the shorter-term maturities would have to be remarketed when their maturity came up?

THE WITNESS: There would be more than one series of bonds issued at one time. One series would be marketed long and another series would be marked short term, subject to remarketing at a later date. It would be long term, and sometimes we would we would have more than one remarketing date such that, if six months later we still didn't need it, then maybe three months after that, there would be another remarketing date that we could access.

BY MR. O'CALLAGHAN:

Q What percentage of the offerings involve a

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remarketing --
A Actually, it was a technique that was developed later in my tenure there. And as I recall -- I left there in January of '89 -- I believe it was like the last couple of years I was there that we used that technique. I think early '87 was the first one we did.
Q Let me show you a multipage document, six pages, and it reads "remarketing agreement for $23,500,000 Arkansas Development Finance Authority residential mortgage bonds (single family conventional mortgage loans) 1984 replacement Series A1," and it is dated June 25, 1986.
Could you take a look at that. I will ask you some general questions about it, as to whether that's an example of what we have just been talking about.
(Pause.)
A Okay.
Now, your question was?
Q My question is, is this the type of remarketing agreement that we were just talking

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about?
A I don't think it is. I am sitting here trying to remember this transaction. My recollection is that this was a slightly different one in that it was a 1984 transaction that we did for about $100,000,000, and we originated all of those bonds, but approximately 23.5, and we came back at some date later -- perhaps June of '86, I can't remember -- and did what is now commonly referred to as a current refunding of those bonds, for which we didn't ever originate mortgages because we had proceeds still sitting there.
And we took those proceeds and took them to refund -- actually we took those proceeds and loaned them out. At the same time we issued new bonds, took the proceeds from the new bonds and used them to retire the old bonds.
That sounds pretty simple, but under tax laws it was hard to get there at that point in time. And this was the first time we had ever done it. And I believe because it was kind of a new structure. For some reason we structured it as one that we call

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a replacement series where we were actually replacing those funds for another bond, and we called this a remarketing agreement instead of a bond purchase agreement, I think. I believe that was the reason this one was called that. This was June '86.

The next fall we came along and started doing them the way I described to you so we could just kind of roll them out. The problem was, this $100 million bond issue we didn't use it all, we came back the next year and decided we weren't going to do a hundred million long at once. We were going to issue the bonds and only do one portion so we were not exposed to market risk.

Once you go long with some mortgage funds, then the mortgage market can go the other way and you are sitting there holding, and that's what happened to this $23 million. Our original issue was about 11 percent, and by less than 12 months later, conventional mortgages were well below that, so we had a problem with that money.

So I think that's it. It was a technique we used to try to hold on to those funds. But the

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end result was, when we did this remarketing, the mortgage rate on this money was able to be lowered.

Q Okay. With regard to the best you can remember, looking at page 6 of that page, are the underwriters listed there the underwriters that were involved in the initial offering?

A They would -- in the '84 offering, right.

Q Yes.

A Whether they were in this '86 one, I don't know. I just can't remember. .

Q Would this replacement series have provided the underwriters who were involved with it an opportunity to realize additional sales fees or commissions?

A Probably would have. I believe that's the way this one worked. As I say, this was a -- this was -- I don't think we did more than one like this. So, I'm -- it's been too long for me to tell you exactly, but reading the agreement, it looks as if that's the case. Somebody got paid because, over on the fifth page of the document, there's a fee for the remarketing agent.

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Q Which is listed at 384,225. And Lasater & Company was involved in this?
A I don't remember. Their name is listed there, and that's all I can tell you.
Q Thanks. Do you know or have you ever heard that there was any money laundering associated with ADFA bond underwritings or offerings?
A You have been -- have you been talking to Mr. Nichols? I have heard allegations Mr. Nichols made about that.
Q What was the substance of the allegations that you heard?
A There is no substance to them.
Q What were the allegations?
MR. STRASSER: Would you like to explain how this is relevant?
MR. O'CALLAGHAN: This is relevant as to whether or not with regard to any bond underwriting offerings, or bond underwritings -- excuse me -- and offerings done by the authority and whether Lasater & Company was involved with any potential or, you know, possible money laundering associated with those.

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THE WITNESS: No, the allegation is totally preposterous; suggestions. If you think there is any possibility of it, then you need to talk to our accountants who audited our financials every year.
BY MR. O'CALLAGHAN:
Q I am going to show you a one-page document, no Bates stamp, bears number 24, and I just want you to take a look at it. And I am going to ask you specifically whether you can confirm or deny information contained in the document.
MR. FEUER: Where did this come from?
MR. O'CALLAGHAN: This is from an RTC production.
(Witness conferred with counsel.)
BY MR. O'CALLAGHAN:
Q I think you've probably already anticipated one of my questions and maybe I can help expedite the process here.
This document refers to a July 12, 1993 article in The Nation magazine, and in here, it says "a former propagandist for the Contras, Larry Nichols, was hired as the marketing director of the

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Arkansas Development Finance Authority." The article states that the "ADFA's first loan in 1983 was to POM Inc. a company owned by Seth Ward."

And then it reads Lasater & Company was to have underwritten the bond issue, and then it says "Ward's son-in-law, Web Hubbell, is reported to have represented POM $2,750,000 loan from ADFA."

First question, was Larry Nichols ever hired as a marketing director to ADFA?

A He was hired -- I don't believe that was his title, but he did some -- he was hired to do some marketing. He worked there for four months. At the time he was hired, he was not known by me to be a propagandist for the Contras.

Q Okay. Did ADFA ever make a loan to POM Inc.?

A We didn't make a loan. We issued bonds which funded a loan which First Tennessee Bank made. And First Tennessee Bank, as I recall, bought all of the bonds, or they put up a letter of credit for the bonds; I am not sure which.

At any rate, they were on the hook for that

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loan. It is basically what you call conduit financing. ADFA had no risk, advanced no moneys. They just put their name on the bonds.

Q Did Lasater & Company have anything to do with the underwriting of that bond issue?

A Not that I know of. As I say, I am almost certain that First Tennessee Bank did the transaction, you know. It's been many years, and I could be wrong, but I don't believe that they did. I might be wrong.

Q Thanks. Do you have any knowledge of any shell corporations that were set up to purchase bonds that were underwritten by Lasater & Company?

A No.

Q This is just some more general questions which I probably should have asked you earlier. With regard to the granting of the underwriting contracts to different underwriters, with regard to the AHDA and the ADFA bond offerings that you were involved with when you were there, were contracts based on different rates that underwriters thought they could get for the bonds, or what they would be able to do

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the underwriting for? If you could explain how that was set up.

A Yes. I will summarize it real briefly. I mean, I will skip a lot, but --

Q If you need to get specific, I will follow up.

A -- I will try to generalize. The process was -- I kind of went through this earlier when I talked about the meeting I had with the Lasater folks who were trying to sidetrack the financing. Normally the board would -- this particular single family housing, the board would decide they wanted to do a single family housing financing; they would pass a resolution.

After that date, the bond counsel would begin generating bond documents. Underwriters would start doing a financial analysis of a potential deal, looking at various bond structures and maturities and rates, and trying to come in at perhaps where a mortgage rate might be to show the authority what would happen if they were to issue bonds that day and would that put them in the ballpark where they could

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then move forward and actually do a financing.

And that would take, you know, a few weeks to get that preliminary process done. And the underwriters's counsel would put together an offering document or an official statement that summarized the transaction. And we would get that in decent shape.

And then, if everything looked okay, in terms of the way it was going to work, and we got a rating agency to look at the transactions, that it looked like it was okay from a rating standpoint, then the underwriters, the senior manager would open -- what they call an order period, for an initial pricing of the bonds.

What that meant was, they would then take these preliminary -- a preliminary copy of this offering statement, and circulate a preliminary official statement to prospective buyers, and they would take orders. And based upon orders they received during that order period, they would then be able to tell what the market was doing in terms of rates. And they would agree then to buy the bonds, to enter into a contract to buy the bonds at a

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particular rate.
Q Is this after they were already appointed as underwriters?
A Yes, this is almost at the end of the transaction.
Q Okay.
A Once that contract is signed, then the deal is bound. And there's usually about a two-week period during which final documentation is prepared, and there is actually a closing. And they deliver the money and the issuer delivers the bonds. So most of the work is done by the time the pricing and the orders are taken. But that then gives them some type of assurance that they have orders for most of the bonds.
And they know roughly what -- not roughly, they know almost precisely what the rates will be on those bonds and so that's the time at which they make an offer, and the issuer accepts that offer to sell the bonds to them.
Q So, generally would you say the rates and the pricing is done before the underwriters are hired

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by the authority, or done afterwards --
A Done afterwards, way afterwards.
Q I misspoke. With regard to making a determination as to which firms to take on as underwriters, was the authority more looking at the distribution and the resources that the firms had versus their ability to deliver a certain rate?
A Well, they kind of go hand in hand. If you can access a wider market, then you are more likely to be able to hit a good rate. If you are captive to one little piece of the market or another piece, from time to time, different parts of the market are interested in buying or not interested in buying. And if you have access to a broad market, then, even if there are parts of it that are in or out of the market or demanding higher or lower rates, you can generally, with a reasonable size bond issue, you can usually get a reasonable size rate.
And that is the rationale for not letting just one underwriter handle your transaction, because some firms are better at selling retail, and some are better at selling institutions, and some access

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different retail than other. And so the better the mix of all of your underwriters, then the better the chances are, on an ongoing basis, that whenever you do issues time and again, that you will be hitting a broad market, and you will get a good pricing.

Q And with regard to the co-underwriters, and specifically the local firms, was the focus on those firms and their ability to distribute within the state or was it --

A Mainly in the state. We've got our national firms involved to do outside of the state, and we were mainly interested in -- mainly interested in the state; not to mention, some of them didn't sell in other parts, too. But generally if they were located there, they would do some selling in the state.

Q Generally they were more involved with just the distribution rather than structuring the deals and putting all the documentation together; is that right?

A Yes, mostly.

MR. O'CALLAGHAN: Why don't we take a quick

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break here, if that's okay.

(Recess.)

MR. O'CALLAGHAN: Back on the record.

BY MR. O'CALLAGHAN:

Q Mr. Epes, did you have any responsibilities or duties relating to providing for the physical space for the agents?

A Somewhat. The state has an agency called building services that actually locates rental space for state agencies. And so in my role, I just communicate to state building services when I feel like we had a need for office space and explain to them what it is we need, and then they go out and locate various places that maybe are available. And usually it is an ongoing process, in which we narrow down, together sometimes, sometimes they just determine what is there, and tell you that's your space.

At some point, in -- I guess it was 1984, late '83 or early '84, we went through that process.

Q And what triggered your entering that process?

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A We were getting crowded, and also, the space that we had was split up, the building was Ushaped and we occupied two sides of the U, and were not enjoined in the middle. There was just a hallway separating us by probably 50, 75 yards of space. We needed to be in one contiguous area and also we needed more space.

Q And in between, was it just an empty hallway?

A It was a hallway with other offices between, down the side of that hallway, so -- and those offices were already occupied. So there wasn't any way we could do that. And we tried to move within the same building, but another state agency occupied a large part of that building, and there wasn't any room within the building so we had to go somewhere.

Q And where was that building located?

A At 7th and Main Streets.

Q Do you remember what number or the name of the building was?

A The name of it was Donaghey, the Donaghey

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Building.

Q When it became apparent that the agency needed more space, what was the first thing you did with regard to securing more space?

A We contacted the state building services department.

Q Who did you contact over there?

A I don't recall. I had a deputy -- C.E. Anderson at the time -- that handled most of it. When I came there in September, he had begun -- I don't know if he had talked to building services, but he was interested in getting the office moved; I will put it that way.

So after I was there for several months and getting my feet on the ground, we initiated the process.

Q You were able to focus in on securing more space for the agency?

A He fairly well took charge of the project and made most of the contacts. So I don't recall whether I might have made a first call or not, but I was not in regular contact with building services.

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He dealt with the people over there fairly regularly for a short period of time, until we ended up being located in the Madison Guaranty building.

Q How long did it take for the whole process, would you say?

A Probably three months, something like that, would be my guess. It's been a long time. And then once we determined that that's where we were moving, there was a construction period where they built out our space for us. It was an old warehouse that had been converted so it was raw space and we were able to put up the walls and the offices in an arrangement that was best for us.

Q How long did that process take, construction?

A I don't know. The construction took probably two or three months longer. But at that point in time, what I was saying was, the period of time between when we contacted building services and ended up settling on that location, I think it was probably around three months, something like that.

Q Maybe five to six months total for the

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whole process?

A Probably.

Q And who did -- of course, it is almost to the extent of your knowledge -- who did Mr. Anderson deal with in building services?

A The principal person was a person named Helen Vowel, I believe was her name. Her name changed at some point during her tenure. It was either -- Helen Herr at one point and it was Vowel at another point. There was an architect over there we consulted with to kind of do our drawings and our space, and his name was Glen something. And those are the only two names I recall. There may have been -- he might have dealt with some other people.

Q How about, did he have any dealings with anyone by the name of Paul Mallard?

A Paul was director of that department. I don't know. I can't say whether he had direct contact with Mallard or not.

Q So, was Helen Vowel the lead person for the building services on this project?

A I think so. I think -- her job was kind

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of -- I don't know what her real title was, but she performed the function like a leasing agent, that -- she knew what was out there, and talked with the agencies, and kind of would match up needs to space.

Q Did any other agencies assist in this process, or was it --

A That was it.

Q Did there come a point where Ms. Vowel identified a certain number of spaces that were potential sites for the agency?

A Yes. We looked at -- we look at a few sites. As I recall, what happened was she came up with a group of options and Mr. Anderson set up a time for me and him, and I believe somebody else in the agency -- maybe our finance director, I don't remember -- we went on a tour of several spaces.

And I can't -- I can only remember two of them. One was in the old Blue Cross Building, I believe, and the other was an old Federal Reserve Building or some type of banking establishment, that was full of -- the hazardous product.

MR. STRASSER: Asbestos.

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THE WITNESS: Asbestos, that was it.

It was terrible space, had one big area with no windows whatsoever. It was really bad. I don't remember, but none of them really were very good spaces.

And Mr. Anderson had located -- I don't know if he did it independently or what, but there was a possible new construction site out of downtown about two or three miles that he, for some reason, liked and thought would be a good place for us.

BY MR. O'CALLAGHAN:

Q You inspected that as well?

A Well, we drove by the empty lot. I knew exactly where it was. As I say, it was three miles out of downtown. I wanted to keep us somewhere close to the downtown area.

Q I would like to show you a document that's dated September 29, 1983, on Greenbelt Properties Incorporated stationery, and the Bates is DKSN 016537. I would like to have you take a look at that.

(Pause.)

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A Okay.
Q Do you know, did the agency ever consider moving to a location by the name of LaSalle Place?
A I don't know. I don't know where that is.
Q Are you familiar with anyone by the name of Mary Sue or Mary Lee Jacobs?
A Mary Sue Jacobs now works for First Commercial Bank. She is like an investment -- she is fairly senior in their investment division, but that's what I am saying, it doesn't really tell me. So I don't know. I can't say where that is.
Q This letter is dated September 29, 1983.
A Yes, and I would have been there less than two weeks at that point. Not to say it wasn't still on the market months later when we were looking and we could have looked at that. I don't remember. Whatever LaSalle Place is, apparently just changed names or -- I just don't know where it is. I don't know. It doesn't ring a bell.
Q Are you familiar with Greenbelt Properties Incorporated?
A No. I am not sure what that is, either. I

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know Mary Sue Jacobs is at the bank and has been there for years, so that doesn't help, either.
Q What bank was she with?
A First Commercial.
Q I have a document, Bates stamped DKSN 016875 and 016876. I would like to direct your attention to the first page, starting "at the time AHDA considered moving to the Madison building other quotes were received as follows," there is a list of properties with quotes.
You could take a look at that, and I don't know if that refreshes your recollection whether or not you received quotes on those buildings.
(Pause.)
It continues on the second page.
A Okay.
You want me to go down the list?
Q This list may be more comprehensive than your memory.
A Yes.
Q Could you identify which ones --
A I can identify most of these -- I know most

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of these, where most of these buildings are, unlike LaSalle Place which I don't recall. I don't remember looking at very many of these. As I said, I remember looking at the Blue Cross building.

Continental Building, several years later we ended up there and that's where their office is today, but it had been renovated when we moved. And I believe at this point in time it was not renovated and it was not very good space.

The Spring Building is an old building which we could not have gotten on one floor, I don't believe. That was -- I remember looking at one or two places where we had -- we just couldn't get all of our space in one area, was the real problem. The Spring and the Pyramid buildings, I would think would be in that case.

And then over here, G, H, Executive Building, Evergreen Place, and then I, Plaza West, those are all about five miles west of downtown. Spring Plaza Building, I am not sure where that was, but it was 14.50 a square foot; that was too high. University Tower is about in the same location as the

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others, about five miles out of town.

Commercial National Bank Building, I believe we looked at it and it was -- the space wouldn't work. We couldn't get our people in one area. The People's S&L Building, that's the one I was saying was the bad one. Tower Building, again, it was higher price. I don't believe they offered us that one.

Heritage Center we looked at and liked, but we couldn't get ourselves in one -- they didn't have a big enough block of space for us in one place, I don't believe.

City Center, I don't remember. City Center Building, I can't place what's there at that corner. I just can't remember it. And The Gazette Building, I don't remember, either. At that time they were in business. I don't -- I didn't realize they had as much space as we needed.

Q Okay, thanks.

A That's what I recall.

Q Did there come a time when you narrowed a certain number of properties as potential sites for

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the agency to move to?
A I don't remember, as I say, as you could tell from me going down that list, there just weren't that many options. And I don't recall exactly what the chain of events were. I just seem to recall that the Madison building was the building -- the building that building services said was suitable for our needs, and was at a price that was competitive, and that's where they wanted us to move.
Q When was that recommendation made?
A I don't remember. It was -- several weeks into the process is all I can guess.
Q Okay. I show you document Bates stamped DKSN 016527. It is a one-page document on Arkansas Housing Development Agency letterhead dated, March 5, 1984. And it is addressed to Ms. Helen Vowel, state building services and signed -- signed Wooten Epes, executive director.
Take a look at that, and after you have had a chance to review it, please tell me.
A Hurts my eyes.
Q The copy is not great. I apologize.

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That's the way it was produced.
(Pause.)
A I have seen a better copy of it before.
Q This letter dated March 5, 1984, have you seen it before?
A I think so, yes.
Q Is that your signature that appears on the bottom of the page?
A No.
Q Whose signature is that?
A I don't know. But it is not mine.
But what probably happened was -- I am not saying I don't remember this letter being prepared, and I don't remember it being sent. I believe that is Mr. Anderson's signature of my name on the page, and I also believe that I approved the letter going out. So I am not saying somebody --
Q So you remember the letter?
A I remember a letter going out. It was -- I really couldn't -- as time went on, I really wasn't sure what the contents of it were, but I just recall that there was a letter that was sent out. I believe

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he probably drafted it, and I approved it. And either I was out of the office or something when it was prepared, and he signed my name and sent it.

And I just recall that we sent a letter saying that we didn't want to move in the Madison Guaranty Building. And I thought it said -- I thought it went to the point of the fact that the location was not in a part of town that people on our staff felt secure. I remember that being a complaint that a number of ladies in the office had about it, and I just forgot that -- what exactly the letter said. But that was --

Q Was there another letter you might have sent that addressed that issue?

A I don't know that it was -- maybe it was addressed verbally, in some other manner. I just remember that being a concern.

Q The first sentence of the letter reads "AHDA has decided to reject a proposal for Madison Guaranty to provide office space at 1501 Main Street." This letter is dated March 5, 1984. Was this sent after the state building services told you

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that they thought the Madison space was most appropriate?

A I believe that's the case. I mean, that sounds logical that they would have done that, and then this -- Mr. Anderson would have prepared this letter.

Q Just with regard to what your memory is of what other concerns might have been for the agency rejecting the Madison proposal at the time.

A Yes, the major concern I recall was the fact that there were a number of ladies that felt insecure in that part of town, walking to their cars, perhaps, working late. That was the major thing, that I recall today, at that time.

Q After looking at this letter, does that refresh your recollection as to other concerns you might have had?

A Yes. I am not sure these were actually my concerns. As I say, I let Mr. Anderson handle most of it and I pretty much let him call the shots. And I think what happened was he drafted a letter for me to sign, which was in line with what his thinking was

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about our space needs.
Q But was the ultimate decision whether or not to accept or reject the proposal yours?
A I don't think so.
Q Whose decision was that?
A Building services.
Q Building services?
A Yes, I don't think we had any ability to determine where we wanted to go without having their concurrence.
Q This letter in the third paragraph addresses costs associated with the Madison Guaranty space, and some other concerns. To the best you can read that, does that refresh your recollection as to whether there were price concerns about moving into the Madison space?
A Yes, I just don't remember it. I mean I see what's here, but I don't -- I just don't recall exactly what -- what they were, other than that security problem. I just didn't remember this part of it.
Q Okay. After this letter was sent out on

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March 5, 1984, did you get any response from state building services with regard to your rejection of the proposal by Madison Guaranty to provide office space?
A I don't recall what the response was or how we got it, but the ultimate result was we moved in there, so we got some kind of response at some point. I just don't remember.
Q Do you remember whether it was written or oral?
A I don't recall.
Q You were basically told the agency would be required to move into Madison Guaranty space by building services?
A I believe that was conveyed to me by Mr. Anderson. I don't know that I got a response myself. I just don't remember. It's been too many years.
Q Did you have any reaction to that? Did you have any reactions?
A Yes. As I said, my recollection was that I was more concerned about trying to address the

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concerns of people on my staff, more so than maybe Mr. Anderson worrying about whether the utility bill was too high. That was speculative, actually, and I was -- didn't want my staff members to think that I didn't care about their concerns. I was -- I wanted to try to address that.

Q How did you try to address that?

A Well, the chairman of the department, Mort Hardwick at the time, was from the same town as Mr. Anderson, so somehow they had been talking about it. And Mr. Hardwick came to me and asked me what I felt about it, and I told him -- told him what my concerns were. And he said well, do we need to go talk to the governor, and I said well, I feel like I would like to do that just so my staff will know that I've pursued all the avenues that I can pursue.

See, there was a meeting between the governor and me and Mr. Hartwicke. There might have been someone else in the room; there usually was. I just don't remember who it was. And it was a fairly brief meeting and we just -- he and I, Mr. Hartwicke and I -- both expressed our concerns. And my

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recollection was, that the chief concern was this security problem, or at least perceived security problem, that people in the office had.

Q What was the governor's reaction?

A He felt like those problems could be addressed, and he felt like the state needed to try to have a presence in this part of town because there was an ongoing effort to revitalize and redevelop that part of Main Street in Little Rock. It was only a few blocks from the governor's mansion, and it was kind of a part of town that needed redeveloping, and he felt that this might help that process.

Q Did he recommend you move into the Madison building regardless of your concerns?

A I don't recall that he recommended it. I think what he said was that he didn't think it was a bad idea, and that he wasn't going to overrule the director of building services.

Q That was Paul Mallard?

A Right.

Q Did he have any conversations with Mr. Mallard concerning this issue?

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A I don't know. I can't say.
Q Did he mention any need to support the bank in any way, Madison Guaranty?
A No.
Q Did Jim McDougal's name come up during the meeting?
A I don't remember.
Q Did Susan McDougal's name come up during the meeting?
A I don't recall.
Q Did you have any conversations with either of the McDougals with regard to the leasing?
A Yes, at some point Mrs. McDougal contacted me to, I guess, sell me on the idea or whatever. And I more or less told her that Mr. Anderson was handling most of that, and I was going to take his recommendation, as I recall.
Q Are you aware whether the governor had any conversation with either of the McDougals with respect to the leasing with AHDA?
A I have no idea.
Q Have you ever been told that happened?

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A I don't believe so. I don't remember being told, I will put it that way.
Q Ms. McDougal didn't mention it during the conversation?
A No.
Q Do you know if Mrs. Clinton had any conversations on subject with regard to leasing the space to AHDA?
A I can't remember anything about her being involved in it, no.
Q Was she present during the meeting with the governor?
A No.
Q After your meeting with the governor, what was the next thing that happened with regard to the process?
A I don't remember. I just recall that we ended up moving down there. And during the spring months, they were doing work. I remember walking down there a couple of times and checking the progress of the work.
At some point we signed the lease, and --

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Q Did you sign the lease?
A I think I did. I am not sure. Building services could have signed it. I am not sure whether they did or not. I can't remember who did that.
Q Do you have any recollection whether you earlier instructed anyone to negotiate a lease with another property?
A You say earlier or later?
Q Earlier than March of '84.
A No, I don't.
Q Let me show you this.
A Yes, let me see that.
Q The document is Bates stamped DKSN 016566. It is a one-page document on Arkansas Housing Development Agency stationery, dated October 31, 1983 --
A That does appear to be my signature.
Q Let me finish identifying it. It is a letter addressed to Mr. Carl Brooks, state building services, and it is signed Wooten Epes.
It says "Wooten." You say that's your signature that appears there?

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A Yes.
MR. O'CALLAGHAN: Counsel, have you had a chance to review it?
MR. STRASSER: No.
MR. O'CALLAGHAN: Let me know when you are finished and I will ask some questions.
(Pause.)
MR. STRASSER: Okay.
BY MR. O'CALLAGHAN:
Q "After reviewing the office space which your agency has surveyed, the AHDA asks that you negotiate with Bector Phillips Moore to obtain a lease from the owner of the property located 1320 Brookwood."
I guess the pending question was whether you authorized negotiation of a lease of another property previous to March -- is this -- does this letter refresh your recollection?
A Yes. I mean, I wouldn't say I authorized -- I don't know. Yes, you could word it however you want, but this is the same address apparently that was in the other letter which

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referred to Brookwood Drive.
Q In the March 5 letter?
A Yes, the first line of the second paragraph refers to Brookwood Drive, I assume that's the same space, Brookwood. That's the space, that's all I can --
Q Brookwood Drive wasn't the Madison Guaranty space?
A No, that's right. It was the space which was referenced in the March 5 letter as being an option.
Q Okay. And do you recall whether that was canceled for any reason or whether agreement was ever entered into?
A I am trying to read this letter. The March 5 letter seems to say, this proposal was apparently disapproved by building services because the price was not acceptable.
Q Okay, I see.
A "AHDA concurred in the rejection of that bid" -- it is hard to read. I believe the last line of that paragraph says "because we believed that the

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Madison Guaranty property would be less expensive."
Q Did that point of view change with regard to the Madison Guaranty property being less expensive?
A Well, apparently Mr. Anderson's did, because I think the next paragraph talks about his concern about utilities not being fixed or something of that nature. I have forgotten what the situation was.
Q Which caused the price of leasing to be more expensive?
A Well, it might have. I don't know whether it really did or not.
Q Okay. Would you say your concerns about the security issues were pretty strong?
A Mine -- my own concerns were not that strong because I didn't live very far from there.
The ladies in my office, their concerns were pretty strong and I wanted to look at all of their concerns.
Q So would you say this was a pretty big issue for you to go to the governor to bring it to

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his attention?
A That's a relative term, you know. No, it wasn't a burning issue to me, personally.
Q But to --
A As director of an agency that had staff that were concerned about something, I wanted to do what I could to look out for their concerns. I was doing my job.
Q Did the agency eventually move into the Madison Guaranty space?
A We did. And --
Q When did that occur, if you remember?
A Sometime late spring, May, June, something like that. And I believe Madison Guaranty hired a security guard to be on duty. And we got parking that was inside a fenced-in area, right outside the door of the building such that the ladies didn't actually have to walk out on the street and subject themselves to too much danger.
Q Did you experience any security problems once you moved into the building?
A I don't recall any. It's been a long

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time. I just don't have any recollection myself of any.
Q Do you recall whether any cars were broken into or any complaints made to Madison with regard to that?
A No, I don't remember.
Q I would like to show you a document Bates stamped DKSN 016512. I give one to counsel as well. Let me know when you have had a chance to review it.
A Okay.
Q It is a one-page document on Madison Guaranty letterhead, addressed to Mr. C.E. Anderson. It looks like it is from David Fitzhugh, general counsel.
After looking at this document, does this refresh your recollection as to whether you were told about any security problems?
A No. I still don't remember. I'm sorry. I don't have any recollection. I don't see a date on here anywhere, either. It is hard to --
Q You were never informed of employees' cars being broken into in the parking lot as referenced in

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the letter?
A I won't say I was never informed. I imagine if Mr. Anderson sent a letter, he probably told me about it, but I just don't remember.
Q After the agency moved into the Madison Guaranty Building, how would you characterize your satisfaction with the space for the agency?
A I liked it. It was -- it was laid out well, and we got to design our space that was in a manner that was suitable for us. Unfortunately, we did it at a time that we did not anticipate that we were going to become the Development Finance Authority. And so, within about, I think, probably late '85 or early '86 we had to expand.

And fortunately -- I mean it was unfortunate we had to expand, but there was additional space immediately to the north of our space in that building. And we were able to take that up and add to our lease and accommodate our new staff that we brought on at that time.

And I don't remember -- I think it was early '86, when that was done.

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Q Did there come a time when you had leave the space?
A Right. We continued growing, and we ran out of space over there that we could take, and so we left the building. I don't remember exactly. You might have records that will show, but it was maybe a year later. I don't know.
Q Is your recollection the agency might have moved in September of 1987 to a building called Technology Center?
A That sounds probably right. That would be a little over a year after we expanded into the other area, yes.
Q Where was the Technology Center located?
A That was located at 100 Main Street.
Q How far away was that from --
A Well, that's 100 and we were at 1500, so it is 15 blocks north.
Q Was there ever any concern expressed about the location of the Madison building with regard to convenience for the staff in doing their duties?
A Well, I don't remember. It was maybe not

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as convenient as we would have liked, but it was a lot more convenient than that Brookwood Drive site, which was three or four miles from downtown.

Q Did the agency have to incur the cost for the construction that was done in the building before they moved in?

A I think we had to pay for some of it. I don't remember what the arrangement was exactly.

Q Was the agency reimbursed when they moved out for the construction costs they had to pay?

A I doubt it. I don't remember how it was arranged. I just know that we paid a portion, and it was actually built into our rent so that we paid it out monthly. And that's all I can recall. I don't remember whether we had an allowance and we exceeded it and therefore we had to pay some or what. I just don't remember how it worked.

Q Do you recall whether the cost of construction were completely paid for by the time you left, or was there still some outstanding?

A I don't remember. I don't remember.

Q I'm sorry to go back to this. At the

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meeting with the governor and Mr. Hartwicke, is that right?

A Yes.

Q To refresh your recollection, was Bob Nash there?

A I just can't recall. He would have been the logical person to be there because of his position as our liaison. He probably was, but I just don't remember.

Q Do you remember if Betsey Wright was there?

A I don't recall.

Q Did any members of the ADFA board do any banking at Madison Guaranty?

A I don't know. There weren't very many of them from Little Rock, so I don't think so; and I don't think they had a branch anywhere, so -- Margaret Davenport was employed with another bank, so narrow it down -- I don't know. Other than that, I have no idea.

Q How about any of the staff members?

A I have no idea.

Q Did you have any accounts there?

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A No.
Q I asked you earlier if you were familiar with a realty company called --
A Is that Greenbelt Properties?
Q -- Greenbelt Properties. Are you familiar with a company called Greenfield Properties?
A No.
Q During the time that you were looking for space for the agency, what was your first choice for office space, if you had one?
A Well, I didn't have one. I couldn't find what I wanted, and that was within our price range anyway. We needed a pretty good chunk of space in one block and that was generally the problem, finding that and finding it in a low cost building.
Q Were you consulted at all with regard to the police commission underwriting of the bonds --
A No.
Q Was anyone at the agency, that you are aware of?
A Not that I recall.
Q Were you surprised that that underwriting

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was done through the State Police Commission?
A I just don't remember whether I would have been or not. You know.
Q Was that an underwriting you generally would have expected to have been done?
MR. STRASSER: What does this have to do with the permissible scope of your inquiry?
MR. O'CALLAGHAN: Part of the scope of the inquiry is with regard to the bond underwriting contracts with ADFA and Lasater & Company.
MR. STRASSER: And this one was not with ADFA, so that has nothing to do with this. So what does this question had have to do with --
MR. O'CALLAGHAN: Well, let's go off the record for a second.
(Discussion off the record.)
MR. O'CALLAGHAN: Back on the record.
BY MR. O'CALLAGHAN:
Q Have you ever learned or ever heard that there were attempts made to provide the governor with money in connection with state bond underwriting contracts done through ADFA?

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A Rephrase it -- state that again.
Q Sure. Whether you've heard or ever learned that attempts were made to provide the governor with money in connection with state bond underwritings done by ADFA --
A No.
Q -- or AHDA?
A Are you saying they were going to give him money out of the underwriting, or what are you saying?
Q Provide him money with regard to getting underwriting contracts.
A No.
Q During your time at the agency, AHDA or ADFA, did anyone at the governor's office approach you about hiring the Rose Law Firm as a bond counsel in connection with underwritings that included Lasater & Company?
A No.
Q Have you ever heard that that was done with any of the board members?
A No.

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Q This is a pretty general question. Are you aware of any discussions between Governor Clinton and any member of the ADFA board with regard to Collins, Locke & Lasater or Lasater & Company?
A I can't recall any such occurrences, no.
Q How about with regard to any of the staff members and the governor?
A No, I don't recall anything.
Q That includes you as well.
A Right. I don't recall ever talking to the governor about Collins, Locke & Lasater or Lasater Incorporated.
Q How about Dan Lasater?
A Or Dan Lasater.
MR. O'CALLAGHAN: I have no further questions at this time. Thank you.
MR. FEUER: Let's go off the record for a second.
(Discussion off the record.)
EXAMINATION
BY MR. FEUER:
Q Let me introduce myself again. My name is

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Mitchell Feuer. I am a counsel on the Minority staff of the Senate Banking Committee. And for purposes of this deposition, I will be asking you questions on behalf of the Minority members of the Senate Special Committee on Whitewater.

Because of the nature of the structure of this deposition, Mr. O'Callaghan asks questions first and I ask questions second. I am afraid that the questions I ask will be repetitive and I apologize for that in advance. I may jump around a bit in order to try and cover as much ground in as short a period of time as possible, being cognizant of the hour.

If you don't understand any of my questions, please say so, and I'll try to explain my question or rephrase it.

If at any time you want to take a break or you want to confer with your counsel, just let me know and we will go off the record for that purpose.

Was it your impression in 1984 that certain neighborhoods of Little Rock were predominantly white neighborhoods and other neighborhoods of Little Rock

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were predominantly black neighborhoods?

A It was.

Q Was the Donaghey Building located in a neighborhood that, in your mind, was predominantly a white neighborhood or predominantly a black neighborhood?

A It was really not a neighborhood. It was on the fringe of the downtown business district. It was still within the downtown business district, so there wasn't a real neighborhood around it.

But we had to move from that building. We didn't have an option to stay there.

Q In your mind, the Donaghey Building was located in the downtown Little Rock business district; is that correct?

A Yes.

Q Was the Madison Guaranty Building located in a predominantly white neighborhood or a predominantly black neighborhood?

A It was on the fringes of a predominantly black neighborhood. Across Main Street to the west was a mixed racial area, which included the

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governor's mansion and some older homes which had been recently redone. And to the other side of it was a predominantly black area, so it was kind of on a dividing line, so to speak.

Q Were the women members of the AHDA staff who raised a concern about their safety should the agency move to the Madison Guaranty Building white?

A I believe so. We had some ladies that were African-American, but I don't -- I just -- predominantly they were white and that was probably the group that had the concern. It's been a long time. I don't remember if it was unanimous or not.

Q Is your recollection that the group of women who had the concern with regard to their personal safety should the agency move to the Madison Guaranty building, that that group of women was predominantly white?

A That's my recollection. Yes.

MR. O'CALLAGHAN: I would like to ask you to explain the relevance of this.

MR. FEUER: Well, for one thing, I am finished with that short line of questioning, but you

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elicited testimony about staff members of the ADHA having a concern for their safety and I wanted to probe into that a little bit further.

BY MR. FEUER:

Q Did Governor Clinton --

MR. O'CALLAGHAN: I want to understand what the relevance of the race issue was.

MR. FEUER: Michael, I think that I've explained it fully. I would suggest we go on.

BY MR. FEUER:

Q Did Governor Clinton have a policy in 1984 of encouraging state agencies to maintain their offices within the city of Little Rock rather than in suburban areas of Little Rock?

A As I recall, there was a policy to locate state office buildings in the vicinity of downtown Little Rock. This was during a period of a downturn in the commissioned office space business, and it was just a general policy to try to alleviate that problem, instead of, for instance, building new office buildings, to occupy existing space.

Q Was the Brookwood Drive space located in

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downtown Little Rock?
A No.
Q Where was that located?
A It was about three miles northwest of downtown.
Q Was this in a suburban --
A Yes, somewhat. It was surrounded by some apartments and residential.
Q Was the rent that the AHDA paid on the space in the Madison Guaranty building comparable to rents for other commercial office space in that portion of Little Rock?
A It was a competitive rent, yes. The list that I was shown had rents ranging from 7.50 to 10.50, and it was a little over $8 as I recall.
Q When you joined the ADHA in 1983, did the agency have a policy of encouraging participation of Arkansas firms as underwriters in the agency's bond offerings?
A Yes.
Q And what was the nature of that policy, and what was the goal of that policy?

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A Well, the nature was, multiple -- it was a multiple goal. One was to offer our bonds to Arkansans. Another was to just to generally include as many different people in our bond issues as possible. And a third was, as I have explained earlier, to get wider distribution of our bonds on a regular basis.
Q Following the creation of the ADFA, did the ADFA continue that policy?
A Yes, we actually, I would say, carried it out to a greater degree because we offered more different types of bond offerings which gave us an opportunity to include firms in more deals.
Q Did the Clinton Administration, beginning in January 1983, follow a different policy with respect to the -- with respect to selection of underwriters for state bond business, than did the administration of Governor Frank White?
MR. STRASSER: He wasn't in the administration in January of 1983. Do you want him to talk about when he was in there? Do you want him to limit to it his personal knowledge?

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MR. FEUER: Yes. I am asking whether he has an impression or an understanding that when the Clinton Administration came in in January of 1983, whether they pursued a different policy with respect to selection of underwriters than did Governor Clinton's predecessor. If he has no --

MR. STRASSER: Let him testify from his personal knowledge.

THE WITNESS: I will tell what you I know, and that is that, from '83 forward, the experience was that we involved more firms in doing the bond underwriting business than had been in the past.

BY MR. FEUER:

Q When you say "we" in that context, are you referring to the AHDA?

A Yes, I'm sorry, the agency that I ran. And you can see it on paper here. If you see a list of underwriters that were involved, I am not aware of what methods the Frank White Administration used, but I am just telling you that we did that.

Q Was that a conscious decision to use a greater number of underwriters?

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A The general thrust of our policy was we wanted to be more inclusive and not exclusive.

Q Did inclusion of a larger number of underwriters lead to a greater degree of competition among the underwriters?

A It did. I felt that we got better service from the people that served as professionals, because they were more concerned about other people that were involved in the transaction with them.

Q Did that competition allow the AHDA to issue bonds more cheaply than would have been the case otherwise?

A It should have. Now, it is hard to demonstrate whether it did or not, but I at least felt like we got better service out of the firms that were working for us. At that point in time, there were a lot of bond issues coming to market, and it was occasionally a struggle to make sure that your deal got a priority among all the various deals that an underwriter might have been working on.

Q I am going to show you a document that's marked DKSN 026171 and 26172. I believe that this is

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another copy of a document that you were shown previously by Mr. O'Callaghan.
A Yes, sir.
Q I note that they do bear --
A Looks similar to me.
Q Different production numbers.
Do you find on this document, on this chart, a box that lists the number of lead underwriters used by the AHDA in the period 1981 to 1982?
A Yes.
Q And how many participants are listed there?
A Two.
Q And do you find a box that lists the number of other underwriters used by the AHDA during that same time period?
A Yes.
Q And how many are listed there?
A Three.
Q And coming down to the period 1983 to 1984, how many underwriters are -- how many participants are listed as lead underwriters used by AHDA in 1983

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and 1984?
A Four.
Q And how many participants are listed as other underwriters by AHDA in the period 1983-1984?
A 11.
Q Did you have any reason to believe that the information that's contained in this chart is not accurate?
A Just from what I can tell, it looks -- it looks fairly accurate. The only -- there is one minor inconsistency, in that Collins, Locke & Lasater and Lasater & Company are actually one and the same, so that would probably make that number 11, should be actually 10.
But all of the other firms that are listed here, I recall being involved in transactions.
Q Was Lasater & Company a successor firm to Collins, Locke & Lasater?
A Right.
Q Let me show you another --
A Do you want those back?
Q I will take those back.

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I am going to show you another document. This has been Bates stamped DKSN 026102 through 26124. These are pages that were produced to the Committee in this consecutive order. I will say that they were not stapled together in this order, but these are consecutive pages from the document production.

I am going to direct your attention to the first page, page 26102, and further direct your attention to the period 1983, 1984. And I am going to ask you if you see there a line labeled "Lasater" on that list and another line labeled "Collins"?

A I do.

Q Do you understand that information to convey the dollar amount of the bond issues that were underwritten by Collins, Locke & Lasater and Lasater & Company in the period 1983 to 1984?

MR. STRASSER: Are you asking him whether he has personal knowledge of the accuracy of these figures?

MR. FEUER: I am asking him to help me interpret a document if he is able to.

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BY MR. FEUER:

Q I will ask you, have you ever seen this document before?

A No. I don't know where it came from.

Q At the top of the document appears the legend, "ADFA use of other underwriters by total dollar amount of issue five periods." Based on your experience as executive director of the AHDA beginning in 1983 and continuing through 1984, does the information provided on those two lines appear to represent the dollar amount of the bond issues underwritten by Collins, Locke & Lasater and Lasater & Company, during the period 1983/1984?

A It does.

Q Does this document -- can you go to -- strike that.

Do you see a line under 1983/1984 that's labeled "George"?

A I do.

Q Do you have a belief as to what "George" represents?

A Yes.

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Q And what is that?
A George K. Baum.
Q Do you see a line labeled "T.J."?
A Yes, that would be T.J. Raney.
Q Does this document suggest to you that George K. Baum and T.J. Raney each underwrote $327,500,000 of AHDA bonds during the period 1983/1984?
MR. O'CALLAGHAN: You are asking him what the document says?
MR. FEUER: I am asking him how he interprets this.
MR. O'CALLAGHAN: How this is formatted?
MR. FEUER: I am asking him if he has a belief as to what information is presented on this document, based on his experience at the agency during that time period.
MR. O'CALLAGHAN: But you are not asking him to verify the figures; is that right?
MR. FEUER: That's right.
MR. O'CALLAGHAN: Okay.
BY MR. FEUER:

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Q Does that comport with your general impression of the amount of bonds that were underwritten by the George K. Baum firm and the T.J. Raney firm during that time period?
A I can't say whether it is the right amount. It looks -- the relative comparisons look like it is -- that is probably accurate, because my recollection is that Raney and George K. Baum were actually involved in more transactions.
Q Do you see listed there lines for Stephens, Prudential, First Boston, Lazard, Freres, Chase, Norwest and Merrill?
A Yes.
Q And did each of those firms also underwrite bonds for the AHDA during the time period 1983/1984?
A They did, yes.
Q Do underwriters receive management fees from the issuer, from a bond issuer?
A Right.
Q What are management fees?
A They are fees -- generally, fees that are paid to underwriters are divided into three

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categories. One is for management which is what pays the investment bankers for their work in structuring the bond issue. Another category is take down or concession or -- which is the same as a sales commission that is paid for the sales efforts of the investment bankers in selling the bonds, the sales force of the investment banking companies. And then a third category covers the costs which they recover for taking the risk of underwriting and some miscellaneous other expenses that they have to incur in the offering of bonds.

And of those three categories, the sales commission and concession to the brokers is the largest single item.

Q Does an underwriter's ability to earn money from the concession, or sales commission, depend on that underwriter's ability to sell those bonds to investors?

A That's right. They get paid -- that portion of the fee is paid strictly based upon their production, or how many bonds that firm sells, of a given bond issue. The management fee is normally

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divided on some other basis, and that's decided before the bonds are actually sold.

Q Does a lead underwriter earn a greater share of the management fees than do the other underwriters?

A Right, because they do most of that structuring and preparing the transaction for the market.

Q And does the lead underwriter receive a greater allocation of the bonds to be sold than do the other underwriters?

A Yes.

Q Would that enable -- would receiving a greater allocation of bonds enable an underwriter to earn a greater profit if the underwriter is able to sell those bonds to investors?

A That's right.

Q Was Collins, Locke & Lasater or Lasater & Company the lead underwriter for an issue of bonds issued by the ADH --

A I don't remember any instance where ADHA or ADFA selected them to be the lead underwriter. I

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don't believe that happened.
Q I am going to direct your attention to page 26110 of the document that I handed to you.
A Okay.
Q That page states at the top, "ADFA use of lead underwriters by total dollar amount of issues, four periods." The fourth of those four periods is 1983 to 1991. I am going to ask you to look at that, at the list of firms listed there, and ask if that refreshes your recollection as to whether Collins, Locke & Lasater or Lasater & Company was ever selected as the lead underwriter.
A Yes, they are not on this list. And as I said, I don't recall them ever performing that function. I just wanted to look down the list to make sure we didn't have it either way. But I don't see Lasater or Collins name on there, and I don't recall them ever performing that function.
Q Would Collins, Locke & Lasater or Lasater & Company have earned greater profits if they had been selected as lead underwriter in one of the bond issues?

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A Definitely.
MR. O'CALLAGHAN: Just so it is clear on the record and not misleading, did they ever propose to be lead underwriters on any of the offerings you are aware of? Did they have the capabilities?
THE WITNESS: I believe they proposed. I don't believe they had the capability. They wanted to, I will put it that way.
It is possible that on some of the smaller transactions they might have had the capability, but it was our judgment that the competing proposals with theirs and others never justified selecting them.
MR. O'CALLAGHAN: Usually the lead underwriters were New York firms?
THE WITNESS: Usually. We had smaller deals in the state where we picked local firms.
MR. O'CALLAGHAN: Considerably smaller, though?
THE WITNESS: Yes, even among those, Lasater was not chosen because we felt there were other local firms more capable.
MR. O'CALLAGHAN: Thanks.

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BY MR. FEUER:
Q When you came to the AHDA in 1983, did you have an understanding as to what Collins, Locke & Lasater was?
A My only understand was they were an investment banking firm.
Q Were you familiar with them before you joined the AHDA?
A No, I didn't know any of them. Locke, George Locke, had been a state senator, I knew that name. And Dan Lasater had a large stable of horses which ran at Oak Lawn Park and I knew him as being a horse person. I didn't know he had that business at that point in time.
Q Did members of the state legislature make recommendations to Governor Clinton regarding appointments to the board of either the AHDA or the ADFA?
A I don't know if they actually came forth with their own suggestions. I believe it was the governor's staff's practice to at least consult with them about appointments that were being considered

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and inform them that -- if a state senator was from a certain part of the state, that senator was usually contacted to be informed they were considering appointing a person to a given board or commission, and sought their input.
Q Would it surprise you to learn that members of the state legislature made recommendations for appointments to the AHDA or ADFA board?
A I would have expected it, yes.
Q Was it your impression that private sector individuals or private sector firms also made recommendations regarding those appointments?
A I think -- I don't know if it was routinely done, but when the Development Finance Authority board was first constituted, I believe a number of different people in businesses were contacted for input. I don't know that for a fact.
I just know that it was an enlarged board and they were trying to solicit names of good, qualified independent businesspeople to be on the board. And as a result, I believe, the effort was a little more broad-based than just filling one given

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vacancy on an annual basis.
Q Did Don Spears ever serve on the ADFA board?
A Yes, he did.
Q Did Ed Willis serve on the ADFA board?
A No.
Q Was Bill Mathis a member of the AHDA board?
A Right, he was a member of the AHDA board. And I am not certain whether his term expired when ADFA was created or he just was not carried over. But I don't believe he ever served on the ADFA board.
Q Was the AHDA audited annually by an independent public accountant?
A Yes.
Q What accounting firm performed that audit?
A The first year I was there -- I can't recall the name of the firm. Well, it escapes me, but either the second or third year I was there, we selected Deloitte, Haskins & Sells was their name, I believe, and that same firm is still auditing their financial statement. It is now known as Deloitte & Touche.

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Q Was the accounting firm that preceded Deloitte, Haskins & Sells also one of the national accounting firms colloquially known as the Big Six?
A I think at that time it was the Big Eight even.
Q Yes, it was.
A I think it was. I just -- I'm sorry, my memory is so bad I can't remember who they were, but I believe it was one of the larger firms, yes.
Q As part of those audits, did the accountants review the relationships between the agency and its underwriters? Did they review bond underwriting contracts as part of those audits?
A I don't believe they reviewed anything more than the funds and accounts which were maintained with regard to those bond issues. They normally checked procedures, and perhaps they checked something about the procedure's carry-out, but I wasn't the finance person there and so I didn't look over the auditors' shoulders.
I just know that they checked all of the fund balances and all of the accounts, and made

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certain that we maintained the proper accounts and funds under the terms of the bond documents.
Q Did the independent accountants ever bring to your attention any issue with respect to bond underwriting contracts?
A Never.
Q What is an official statement with respect to a bond issue?
A It's sometimes referred to as an offering document. It is the equivalent of a prospectus in a stock offering. It is a document which describes, in summary form, all of the terms of the transaction which -- all the material terms of a transaction which a buyer of that security might want to look at in order to make a determination whether to buy the security.
Q Do official statements disclose the identity of the underwriters of those securities?
A Yes.
Q Are official statements available to the public?
A In some manner the public can access them;

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I believe it is through Securities Data Service or some big securities information service of some sort; I think they are accessible, yes.
Q Are official statements typically provided to some sort of central repository to which the public has access, either directly or through their brokers?
A Yes, and as a matter of fact, they are public documents, because the agency is subject to the Freedom of Information Act. And if they were to contact the Development Finance Authority, they would be compelled to allow them to reproduce a copy for themselves at their offices.
Q Did each of the bond issues on which Collins, Locke & Lasater or Lasater & Company participated as underwriter, was each of those bond issues accompanied by an official statement?
A To the best of my recollection, they would have been, yes. The only transactions that we did not prepare official statements for were ones referred to as private placements, and in that case we would not have had an underwriting group.

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There might have been one investment backer who might have been acting as a placement agent. And I don't recall them ever performing that function.

Q Do the anti-fraud provisions of the federal securities laws apply to disclosures made in these official statements?

A Yes.

Q What are rating agencies?

A They are national firms that look at the financial structure of bond issues and assign a rating which indicates to the buyer of that bond the degree to which there might be risk of nonpayment of that bond.

With a AAA rating being the highest rating, meaning there is virtually no risk that the bond would not be paid, going all the way down to BBB or BBB-minus which is the lowest investment grade which is assigned to a bond. Anything below that is referred to as junk.

Q Do the rating agencies typically review the arrangements between an issuer and its underwriters as part of the underwriting process?

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A To the best of my knowledge, they look at that. It's -- most of their judgment on a rating, most of what they look at in order to judge a rating is the credit of the bonds. But one of the things that is important to a buyer is whether there is a sufficient secondary market in the event that they might want to get rid of that bond and sell it to someone else.

Q Were the bonds issued by the AHDA and ADFA that were underwritten by Collins, Locke & Lasater and Lasater & Company evaluated by rating agencies?

A Yes.

Q And did they receive ratings, investment grade ratings?

A Yes. My recollection is that they received -- I believe it was an A-plus from Standard & Poor's, and a AA-minus from Moody's. And those were the typical single family bonds. I don't believe we issued any below an A-minus, I don't recall for certain.

Q Do the rating agencies typically look at the identity of the bond counsel as part of the

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evaluation?
A Yes, the standard is nationally recognized bond counsel, is the term that is generally used.
Q So the rating agencies look to determine whether a nationally recognized bond counsel is involved with a particular bond transaction?
A I believe that's the case, yes.
Q How many law firms in Little Rock qualified as nationally recognized bond counsels in the period 1983 and 1984?
A I believe three or four.
Q And how about in the period 1985/1986, did that change?
A I don't think so. I believe at some point in the late '80s, there was maybe one or two more. But I believe from '83 to '86, it was fairly static.
Q Which were the three or four firms that qualified from 1983 to '86?
A Frye, Eldridge & Clark; Wright, Lindsey & Jennings; Rose Law Firm. And the fourth one got into the business sometime during that period of '83 to '86 -- I can't say exactly when it was -- Mitchell,

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Williams, Selig, et cetera. I can't remember all the names of the partners.
Q Did any of the bonds ever issued by the AHDA or ADFA ever go into default?
A No.
Q So any investor who purchased those bonds and had -- any investor who purchased those bonds and continues to hold those bonds has received payments of principal and interest up to the present day, as far as you are aware?
A Yes. And they still maintain a rating.
Q What was the one underwriting firm that opposed the creation of the ADFA?
A Stephens, Inc.
Q Did you have an impression in 1985 as to why Stephens Inc. opposed the creation of the ADFA?
A Yes.
Q What was that?
A They did not want the competition from New York investment banking firms to come into Arkansas.
Q I am going to put in front of you, again, a letter from Stephens, Inc. to Mr. Charles Stout,

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dated April 28, 1983. And my question is, did Stephens, Inc. continue to serve as an underwriter on various issues of AHDA and ADFA bonds after April 28, 1983?

A Yes. When I came to the agency in September -- I don't know what happened between April and September, but after September, they were a co-managing underwriter on the single family housing bond issues, and they have continued to be ever since.

And one of the co-managers on the single family bonds was Lasater or Collins, Locke & Lasater or however you want to -- whatever name they might have had during that period.

Q Did the members of the AHDA board have staggered terms?

A Yes.

Q So they didn't all -- all the members of the board did not come up for reappointment together, but instead --

A Correct.

Q -- they came up according to a schedule.

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Is that correct?

A Yes.

Q When you joined the AHDA in 1983, were any of the members serving on the board -- had any of the members serving on the board at that time been appointed by Governor Frank White?

A Yes, I believe -- I believe there were three members on the board that had been appointed by Governor White.

Q Did that include Chairman Stout?

A Yes.

(Recess.)

MR. FEUER: Back on the record. I have no more questions at this time.

MR. O'CALLAGHAN: I have a couple of follow-ups. Shouldn't be long.

EXAMINATION

BY MR. O'CALLAGHAN:

Q Generally, how did Lasater & Company perform with regard to providing services, co-management services to the agency?

A My recollection is that they performed as

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well or better than the other local firms. They -- I was told by the senior manager on more than one occasion that they sold more bonds than most of the other local firms. In some cases, they sold more than any of the other locals and others they were among the top two.

Q Were these offerings pretty profitable for the local firms?

A If they could sell bonds. That was their main opportunity to make profit, was to sell the bonds, and some sold them more than others.

Q So from what -- your understanding is that Lasater & Company probably made a lots of money off these offerings?

MR. STRASSER: What does "a lot of money" mean?

BY MR. O'CALLAGHAN:

Q It was profitable for them?

A There was profit there for them to make if they earned it. The other firms chose not to earn it as much as they did. And they apparently were better at selling bonds than the other firms.

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Q Okay. When you first got there, there was an accounting firm that the agency was using and then they subsequently changed the accounting firms?

A Yes.

Q What precipitated the change in accounting firms?

A We did a request for proposals, and reviewed the various proposals, and selected another firm.

Q So it wasn't a case that the accounting firm was resigning?

A No, it was not. They continued to -- I believe it is every three years -- they continued to do a review of the accounting firms. And I believe that was probably the cycle we were on when I got there. It had been two, three years, and they bid a request for proposal.

Q When the agency changed from AHDA to ADFA, how many additional board members were added?

A I believe we went from seven to 11.

Q Okay. When you spoke with Susan McDougal with regard to the leasing with regard to Madison

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Guaranty space, did you have any knowledge about whether the McDougals had any business dealings with the Clintons?

MR. STRASSER: This isn't redirect. This has nothing to do with what he asked on cross. I am telling him not to answer that.

MR. O'CALLAGHAN: I am allowed to ask whatever I want --

MR. STRASSER: I am telling him not to answer it. Ask him something new.

MR. O'CALLAGHAN: We can revisit that at another time after I ask the Chairman. We can have him come back to answer to question.

BY MR. O'CALLAGHAN:

Q Do you choose not to answer that question?

MR. STRASSER: I direct him not to answer.

MR. O'CALLAGHAN: I'm asking him whether or not he is going to answer it. He is being deposed; not you.

THE WITNESS: I will take the advice of my counsel.

MR. O'CALLAGHAN: I will reserve my right

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now and we will approach the Chairman on that question. And then to facilitate the inquiry rather than doing it -- we can do it now or we can do it later.

MR. STRASSER: Go ahead, ask the rest of the questions you have on redirect. Knock yourself out.

MR. O'CALLAGHAN: I think that was my last question. Counsel, just for your information, I would like to direct your attention to Section 5 of the resolution, Section 5(b)(7), with regard to conduct of depositions.

MR. STRASSER: I read that, thank you.

If that's your last question, why don't you pose it again and we will decide whether we care to answer it.

MR. O'CALLAGHAN: Okay. Just for the record, I would like to let you know we are not limited in what we are allowed to ask in any rounds of questioning. It is not the same rules you may be used to with regard to direct and redirect in civil depositions.

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MR. STRASSER: Right. I will note, since we are putting things on the record, it is 6:10. We have been here for more than eight hours. And I think Mr. Epes has been more than gracious in giving you his time to answer the most searching, detailed questions about the events of 12 and 13 years ago, more than can be reasonably be expected of any citizen.

Notwithstanding his gracious cooperation so far with you, he will, on my advice, consider answering your question if you will pose it again.

MR. O'CALLAGHAN: Thank you very much. I was waiting for you to finish.

BY MR. O'CALLAGHAN:

Q The question was, at the time you spoke with Susan McDougal with regard to the leasing of the Madison Guaranty space, whether or not you were aware that the McDougals were business partners of the Clintons?

MR. STRASSER: You can answer that.

THE WITNESS: I don't recall whether I was or not.

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BY MR. O'CALLAGHAN:

Q Were you aware at any time during the time period that the agency was considering leasing space from Madison Guaranty?

A I don't recall.

MR. O'CALLAGHAN: That's all the questions I have. Thank you.

Counsel, would you like to clarify anything or ask any clarifying questions?

MR. STRASSER: No. I don't have anything to say. I am not the one testifying.

MR. O'CALLAGHAN: Thank you.

(Whereupon, at 6:15 p.m., the deposition was concluded.)

S. WOOTEN EPES

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, **JOANNE LIVERANI** , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Joanne Liverani

Notary Public in and for the
District of Columbia

My Commission Expires JULY 31, 2000

DEPOSITION OF DENNIS W. FREEMYER IN RE: S. RES. 120

MONDAY, FEBRUARY 5, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of DENNIS W. FREEMYER, called for examination pursuant to notice of deposition, at 2:00 p.m. in Room 186 of the Russell Senate Office Building, before MARYBETH PETERS, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, ESQ.
Majority Associate Special Counsel
GLENN F. IVEY, ESQ.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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DEPOSITION NUMBER	IDENTIFIED
Freemyer Exhibit 1	49, 2205

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PROCEEDINGS

MR. DINH: Mr. Freemyer, as you know, my name is Viet Dinh and I'm with the majority staff here, and with me is Mr. Ivey who is with the minority staff. I will start off by asking you some questions, then Mr. Ivey will follow up if he has any other questions that he would like to cover with you.

This deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes this Special Committee, administered by the banking committee, to investigate Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

Section 1(b)(1) of Resolution 120 authorizes the Special Committee to conduct an investigation and public hearings into whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death.

Section 1(b)(2) -- scratch that.

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1(b)(3)(A) authorizes the Special Committee to conduct investigations and public hearings into the operation, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiaries affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association.

And section 1(b)(3)(C) of Resolution 120 authorizes an investigation and public hearings into the policies and practices of the RTC and the federal banking agencies regarding the legal representation of such agencies with respect to Madison Savings & Loan Association.

Finally, section 1(b)(3)(D) of the Resolution 120 authorizes an investigation and hearings into the handling by the RTC, the Office of Thrift Supervision and the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation of civil or administrative actions against parties regarding Madison Guaranty Savings & Loan Association.

Those, I anticipate, will be the subject

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matter of today's deposition. Let me advise you that this deposition is being taken -- will be taken under oath. The stenographer will prepare a record of questions and answers.

THE WITNESS: Okay.

MR. DINH: The transcript of this deposition shall remain committee confidential, and this deposition is conducted in advance of public hearings which are currently going on right now. And they -- the transcript of this deposition shall remain committee confidential until you are called to testify at such hearings, if indeed you are called at all to testify. At that time, the transcript may be made public in whole or in part.

THE WITNESS: I see.

MR. DINH: After your deposition today, and approximately two or three days when we get the transcript back, you will get a call from a number of majority staff advising you that you can come to the Senate to review the transcript and make any corrections as far as grammatical mistakes or errors in transcription that you see in an errata sheet.

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Again, that review is for limited purposes for your review for corrections and not to be in the transcript and not to be made public for any other purpose.

If you, indeed, are called to testify at public hearings, approximately four days prior to that hearing, we will send you a copy of your transcript for you and your attorney to prepare for your appearance and your testimony at the public hearings. You have a right to counsel, and I see that you do not have a counsel present here today.

THE WITNESS: Correct.

MR. DINH: Let me just advise you then that if you have an objection as to the form in which a question is stated by either myself or Mr. Ivey, you just note it and it will simply be noted for the record. And I will try to clarify the question if you have any doubts regarding what I'm asking.

THE WITNESS: Okay.

MR. DINH: I will also advise you that there are two grounds upon which you can object to answering a question: That is, because of some

privilege that you may wish to claim with respect to an answer or on the ground that the question exceeds the scope of the investigation authorized by Senate Resolution 120. Ultimately, any such objection shall be ruled upon by the committee chairman, and he may, at that time, order you to answer the question after the ruling.

THE WITNESS: Okay.

MR. DINH: Could you swear in the witness at this time.

Whereupon,

DENNIS W. FREEMYER

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. DINH:

Q Thank you, Mr. Freemyer. Could you state your full name for the record, please.

A Dennis William Freemyer.

Q And your business phone number?

A 202-456-2650.

Q From the notice of your deposition, which I understand you had notice since this morning --

A That's right.

Q -- have you had any conversations with anybody other than your attorney or your immediate family members regarding the subject matter about which you are called to testify?

A No, I haven't.

Q Without telling me what you were asked or what you said, could you tell me whether you have been interviewed or questioned under oath by any other investigative agencies regarding the subject matters.

A No, I have not.

Q Could you give me a brief sketch of your

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educational and professional background.
A Educational, I have a bachelor of arts in architecture in environmental design. Do you want the location?
Q Sure.
A From Virginia Polytechnic Institute. I originally went to work for the National Park Service after a few short-term jobs with an architect locally. I did project supervision in terms of construction with the National Park Service, was promoted into more of a project supervisory role up to position of architect with the National Park Service, which was architect project manager. And then I took a position in the ushers office with Executive Residence.
Q When did you take that position in the White House ushers office?
A That was in 1986, January of 1986.
Q 1986. So prior to 1986, you were employed by the Park Service?
A That's correct.
Q Were the projects that you managed prior to

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1986, were they White House projects?
A Yes, they were. Other than the first, approximately, year that I was with the National Park Service, I had numerous jobs here in what is called the "national capital region."
Q Okay.
A And then I started doing work exclusively at the White House.
Q When did you start working exclusively at the White House for the Park Service?
A It was August of 1978.
Q So from August of 1978 until approximately sometime in 1986, you were a project manager for the Park Service but focusing on the projects happening in the White House?
A That's correct. And that's actually where my office was during the time.
Q Your office was in the White House?
A That's correct.
Q Where in the White House?
A One of the basement levels.
Q Okay. Was it in one of the wings or was it

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in the --
A It was in the Executive Residence.
Q It was in the Executive Residence?
A Yes, sir.
MR. IVEY: Join the club.
THE WITNESS: Mine is still in the basement. I went up and then I went back down. I probably should clarify that.
Q Sure.
A I still had an office with the National Park Service, of course. But being assigned to the White House, they were kind enough to give me a little office space, and generally I would report directly there.
Q Okay. And just so I understand the nature of the work, the Park Service is responsible for the administration of construction projects in the White House residence?
A That's correct, the major construction.
Q The major construction of projects?
A Yes, sir.
Q And then in 1986, you said you joined the

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White House ushers office?
A That's correct.
Q In what capacity?
A As assistant usher.
Q And how long -- are you still an assistant usher?
A I was promoted in, I guess it was June of last year --
Q Uh-huh.
A -- to, I guess, assistant chief usher or first assistant -- I'm not sure of the terminology that Gary is using -- specializing in project management.
Q So in this position, in your current position as assistant chief usher in charge of project management, whom do you report to?
A To Gary Walters.
Q Gary Walters, who is the head usher?
A Chief usher.
Q And how many people would you say are approximately under your supervision in your current position?

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A When Gary would be present, so I would not be acting for him. Normally I would have 32 people.
Q 32 people?
A Yes, sir.
Q When he is absent, let's say, when he was on vacation, I believe in last August, you would be acting chief usher?
A That's correct.
Q Then you would be responsible for the entire 89-person staff of the White House Executive Residence?
A 88, because he wasn't there.
Q Of course. Or 87 excluding yourself?
A 87. Exactly.
Q What are your duties as assistant chief usher?
A My normal duties are to manage the ongoing construction projects, the ongoing design efforts, planning, scheduling regarding those projects as well as serving as Gary's first assistant in our normal staff functions. I'm responsible also for the maintenance and the staff that performs the

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maintenance there. And our offices -- I'm sure as you know, we do a lot of different things. And I certainly participate in that whether or not it is a state dinner, events that are hosted by the First Family, official or ceremonial functions as well.
Q So just so I understand, besides your line duties as a project manager, that is, to manage ongoing construction projects and the scheduling and planning of such projects for the upkeep and maintenance or renovations within the White House, you also have staff duties as the chief assistant to Mr. Walters?
A That's correct.
Q Now Mr. Walters is the head usher and who oversees the entire 88-person staff of the Executive Residence?
A That's correct.
Q So you would be the number 2 person overseeing the 88-person staff?
A That's correct.
Q And that staff within the Executive Residence is responsible, generally, for the

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operation and the maintenance of the Executive Residence?
A That's correct.
Q Which includes everything except for the wings in the White House?
A That's correct.
Q All the way to the ground floor up to the third floor?
A The basement to the roof.
Q Basement to the roof?
A Yes, sir.
Q Minus the wings?
A Correct.
Q Do you report -- do you have contact directly with either the President or the First Lady?
A Yes, sir, at times.
Q How often would that be?
A Well, it varies tremendously. When Gary is there, it is kind of on an as-needed basis. Our office is the first point of contact, generally, when the family would need something within the residence. So whoever happens to be on duty or

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answers the phone or encounters them would do what they want. When Gary is not there, then I would be the first line, if you will. To try to quantify it, there are times when I would see them multiple times a day. There are times when I wouldn't see them for several days.
Q But at least one a week?
A Yes, sir.
Q And do you go up to the third floor of the residence once a day?
A Some weeks certainly once a day. Some weeks multiple times a day. Probably not more than two or three days that would go by when I would not have been up there.
Q Okay. Where is your office currently?
A It is in the level called the basement mezzanine.
Q Which is below the ground floor?
A Yes, sir.
Q Do you have another office in the usher's office on the second floor?
A We all share the office on the first floor.

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Q Okay. On the first floor?
A That's correct.
Q I'm sorry. Is that the same as the state floor?
A Yes, it is.
Q Great. And that is also where Mr. Walters's office is?
A He shares that office, and then he has a small office on what is called the first floor mezzanine, which is the directly above the usher's office on the state floor.
Q Okay. And do you serve on occasion as a duty usher?
A Yes, I do.
Q Are you one of the four persons in the rotation as duty usher?
A I was, up until this past promotion.
Q Okay.
A I was actually one of the three that would rotate.
Q Okay.
A With the new position, I work strictly

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days, so I don't work the shift work --
Q Okay.
A -- except for when there is special functions --
Q Okay, okay.
A -- and then it is on an as-need basis. We all would work a state dinner usually, for instance.
Q But prior to your promotion in June of last year, you were one of the --
A Part of the rotation.
Q Part of the rotation?
A Yes.
Q So prior to June of 1995 there were three assistant ushers?
A That's correct.
Q And there was no first assistant as such?
A That's correct.
Q And so you were promoted into a new position and another person took your old position as assistant usher?
A That's correct. The only thing to clarify -- if I may, as the assistant usher as one of

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the three, I had supervisory responsibilities and I took those responsibilities with me to the new position --

Q Okay.

A -- for a maintenance staff and all of that.

Q Okay. So the new assistant usher did not inherit your "portfolio of supervisory authority"?

A Correct.

Q And that's why you have 32 persons under your supervision on a normal basis?

A That's correct.

Q And can you just briefly give me the department that you are responsible for, whom do those 32 people work for?

A It is all of our shops. It's the electric shop, engineering shop, carpentry, paint, plumbing, and our in-house labor force, if you will, it's called "operations." Those are the gentlemen that move furniture, carry things, do kind of all of the leftover items.

Q How many people in operations?

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A Seven. I would have to look at a roster, but I think it is seven, and I can clarify that for you.

Q If need be I will show you a roster --

A Okay.

Q -- and ask you to clarify.

In addition to the supervisory function, you also mention that you were a project manager?

A That's correct.

Q Now, does that mean that you are in charge of the major construction projects or renovation projects within the White House?

A I am in charge of those projects in terms of the Executive Residence.

Q Okay.

A As you are aware the National Park Service administers the major construction. Depending on the project, I take an inactive management of the project as necessary.

Q Okay. In conjunction with the Park Service or do you supervise the Park Service administration?

A Technically, I guess I do not supervise

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them. In reality, I think it is a team approach and they let me pretty much manage it. It is a cooperative effort.

Q Okay. Since you are on the front line --

A That's correct.

Q -- to the White House?

A That's right.

Q You are the main liaison from the White House to the Park Service and also directly to the contractors themselves?

A Not really to the contractor, the Park Service handles that.

Q The Park Service, okay.

A I would be the liaison between the National Park Service and the First Family, if you will.

Q Okay. Now when Mr. Walters was here last week, he stressed very much the need for confidentiality and his utmost respect for the privacy of the First Family.

A That's correct.

Q Do you share those values?

A Certainly. I think that is paramount to

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our position, that we are able to obtain the trust and confidence of any first family.

Q And the people under your supervision, do you supervise them according to this need for trust and respect for the privacy of the First Family?

A Yes, sir.

Q Do you have regular talks with your staff regarding respecting the First Family's privacy?

A No, not really. I think that is understood when you take a job there. Certainly during the interview process for a prospective employee, that is something that is mentioned.

Q Okay.

A That is a historic quality, if you will, of all people that work there; that it is their home, that we always respect that.

Q Right. And Mr. Walters told us that he is one of the persons who ensures that during the interview process that he give the prospective hire a lecture --

A That's correct.

Q -- about confidentiality and privacy?

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A Yes, he gave that to me as well.
Q Okay. Great. Did he breathe the fear of God into you about the privacy?
A No, I don't think so.
Q Okay.
A Just the location does that to you.
Q Okay. Great. But it is well understood and certainly is it in the institutional culture that the privacy and confidentiality of the information in the White House residence is -- should remain as such?
A By information I guess --
Q Whatever -- well, could you explain to me how it works. What if -- what if a person sees something during the course of their duty, a piece of paper that he or she happens to read?
A Okay, then we would not discuss it with anyone. That -- we would consider that to be something private of the First Family's and I'm assuming that it would be in an area, a nonpublic area.
Q Right, right.

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A Of course. What we see, we keep to ourselves. What we hear, we keep to ourselves to try to give them some semblance of a normal life.
Q What about materials that are lying around in the private areas, does your staff move them?
A Only if we had no choice.
Q Uh-huh.
A If, for instance, there was a project going on --
Q Uh-huh.
A -- and there was something that should have been moved that we might observe, we would try to notify whoever would be appropriate. Quite often in construction projects, you might enter a room and -- it would be something more of just a sensitivity, I guess --
Q Right.
A -- to the family; a picture or something of that nature. We might take a drop cloth or a sheet and just put it over those things, because we don't want other people seeing their private things.
Q Okay. Well, let's say that you have some

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construction workers who need to patch up a wall, and in front of that wall is a table, what do you do then? Do you consult -- let's say it is in one of the areas assigned to the First Lady, who do you consult or what do you do in order to move the table?

A Normally, I would have or somebody else would have gotten permission to go there in the first place, and it would be clean. Any items that would be in the way normally would not be there.

Q Okay. During the course of your seeking permission, you also seek to have the area cleaned?

A That's correct.

Q Okay.

A If at all possible, of course. Now, quite often our staff might assist with that.

Q Somebody in operations or something like that?

A That's correct.

Q Let's say that you put in a request to, say, Ms. Huber -- do you put a request to Ms. Huber?

A I have on occasion, depending on the area that we are working.

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Q Okay.

A It is pretty rare.

Q Who else do you put in a request to?

A If it involves -- generally if it involves everything but the private living quarters themselves, I would have the authority to set in motion the things that need to be done --

Q Okay.

A -- within our own staff. If it is in the private living quarters, we make every attempt to do something when the family is not there to not disrupt them. If it is something that has to be done when they are there, then generally I would seek, you know, the consent of either the President or the First Lady.

Q Okay. And then talk with a member of her staff in order to get the actual, can I move this table or can I move this table?

A It would be more general, could we get into a certain area to work.

Q Okay.

A Sometimes I would ask them directly. More

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often than not, it would be a member of their staff.
Q Now, do the same procedures apply with respect to the outside contractors?
A Yes. The outside contractors, in essence, are directed by us in terms of what areas that they will work. One unique thing about this major project we have going on right now is that it is so highly complex that the government ends up literally managing it. It is a very unique project in terms of the structure of the contract. As you can imagine, trying to do a project in somebody's home while they are living there -- of this scale, is very, very difficult.
Q By this "major" contract, do you mean the HVAC contract?
A Yes, sir.
Q And that's the general contract that JCM controls?
A That's correct.
Q But it is so complex that you say that the government basically manages the contract?
A That's correct.

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Q Who within the government?
A Well, it would be the National Park Service team and myself.
Q So you do have hands-on experience with the performance of this contract?
A Yes, absolutely.
Q Okay. Great. Now, so with respect to this particular contract, can you tell me the procedure? Let's say you want to work in a particular area in a particular room on a particular day -- let's say that you could pinpoint it to a particular day -- you request permission from either the First Lady or the First Family and their designees --
A Uh-huh.
Q -- and ask for the area to be cleared?
A Yeah. I think the easiest way to explain it would be, generally the park service, along with the contractor put together a proposed schedule.
Q Okay.
A And it is presented generally to me. And I look at it in terms of the First Family's schedule, in terms of the impact on the house, and the areas,

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the type of work and try to make a judgment call as to what areas and when we try to accomplish certain tasks, and that changes daily. And we, again, try to plan to do the disruptive things to the family when they are not there, but that is not always possible.

Q And then from this proposed scheduled and after the consultation with the First Family schedule and other factors, you come up with the final construction schedule?

A We then formulate a plan to try to get into specific areas and do specific tasks. We do always maintain a series of backup contingencies so that if we can't get to an area we anticipated, we could still use the same labor pool and skills and materials that we have on site. And that's the challenge of the project, if you will.

Q Right. That's why you need a project manager like yourself.

A Yes, hopefully.

Q And so -- so with respect to this specific plan as to what areas, you would communicate that to the appropriate member of the First Family staff in

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order to get the necessary clearance and, if needed, the cleaning of whatever space needs to be worked on?

A That's correct.

Q Okay.

A It would also depend on the scope of what we were doing.

Q Okay.

A Some things are minor in nature that we might attempt to do and, for instance, the family is out for several hours, maybe it's adjusting something, balancing something. Things that are much more major in scope, again, we really try to do when the family is not there.

Q Now, with respect to the supervision of the contractors or monitoring of the contractors and access of the contractors to the White House residence, I'm going to try to ask you a number of questions.

A Okay.

Q As I understand it, access to the second and third floor of the Executive Residence is limited?

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A Limited, that's correct.
Q Okay. To certain people on certain lists; correct?
A To people that have the required type of a pass --
Q Okay.
A -- by Secret Service.
Q So the residence staff would have access to second and third floors?
A Yes, they have the right to do it. Their normal course of business does not necessarily mean that all of our staff would go to and from freely but they have the right to do that.
Q They have a pass with a RES designation?
A That's correct.
Q And another set of people would be the U.S. Secret Service?
A Right.
Q So a pass with USS designation?
A That's correct.
Q Beyond that, who else has access?
A Certainly certain members of the

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Presidents's staff and Ms. Clinton's staff, and I believe that there is a list of those people that are given relatively free access.
Q And that list is being kept by?
A Secret Service.
Q And that is at the monitoring station on the ground floor?
A It is called the F-1 post.
Q The F-1 post?
A Yes, sir.
Q And that records the entries and exits of those persons -- do the Secret Service keep a log of those entering and exiting?
A They keep a log of those people going up to the second floor. Basically, I think they have to assume when a person goes beyond the first floor that they are going to either the second or third floor, obviously, and they would be entered into the log. That does not apply to our staff. We would not apply to Secret Service.
Q So they have a list of people who have access -- free access to the second and third floor?

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A Of the two respective staffs.
Q Right.
A They would not have a list of people that have access in terms of Secret Service or our staff --
Q Right.
A They knew them just by the pass.
Q By the pass?
A That's correct.
Q So even if you have a White House pass, you still have to be on this list in order to gain access?
A That is correct.
Q Without specific clearance?
A That's correct. Or be coming for a meeting with the President, for instance, and then the names would already have been provided.
Q Have been provided. And that's what one would call specific clearance for a particular meeting or a particular purpose?
A That's correct.
Q Or can a member of the White House staff

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who is on the list wave or clear another person in who is walking up with him or her?
A No.
Q Okay. It would have to be from the office of the First Lady or the President?
A Or from our office.
Q Or from your office?
A Yes, sir.
Q And you have access to the President's schedule?
A Or they might call us directly, the President and Mrs. Clinton might ask us or tell us somebody is coming to see them, could we please expect them and give them a call when they arrive.
Q Okay. Great. Now, what about construction workers, what do you do with contractors?
A The contractor is given a pass that requires them to be escorted --
Q Okay.
A -- by generally either Secret Service or the National Park Service personnel on site have passes, or a member of our staff.

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Q How many National Park Service personnel are on site?
A Six.
Q Six persons and they are, for the purposes of this -- of this project, treated just like a member of the residence staff?
A They do not have a RES pass. I believe they have the OGA, which is Other Government Agency, which is more restrictive. Their ability to move within the House would be more challenged, if you will. However, they are allowed to go to the second or third floor. They do not do that without checking with our office first, to ensure the privacy of the family.
Q But they do have access to the second and third floor?
A That's correct.
Q Unescorted?
A Unescorted because they are a pass holder.
Q Are their entries and exits recorded on the F-1 log?
A No.

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Q Are their entries and exits recorded on your set of logs?
A No.
Q So they -- what about the contractors themselves, they are given contractor passes?
A Uh-huh.
Q That requires -- that requires escort either from the six persons from the National Park Service or from a member of your staff or from the United States Secret Service?
A That's correct. And more often than not it is the Secret Service.
Q More often Secret Service?
A Yes. And that's by a tremendous percentage.
Q Approximately what percentage?
A I would say on this project, in terms of man-hours --
Q Uh-huh.
A -- 80 percent might be Secret Service.
Q 80 percent of the escort service?
A Escort time, yes.

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Q Do you know if there are specific agents who usually provide the escort service?
A There's two different divisions of Secret Service -- actually there are more than that, but the ones that we need to deal with -- the uniform division provides escort in all areas exclusive of those that immediately impact the First Family as of the second floor.
Q Okay.
A There is a division called TSD, which is Technical Security Division. They are asked to escort in those areas.
Q In the immediate impact areas?
A The second floor, for instance.
Q The second floor?
A The third floor as well.
Q The second and third floor is escorted by TSD?
A That's correct. Now, sometimes that is done in conjunction with uniform division, depending on the number of people and if there are multiple locations being worked. But an officer from TSD has

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to be present for them to work on the second floor.
Q Maybe he will request support from the uniform division?
A That's correct.
Q But, in any area of the third floor?
A I can't think -- well, there are some utilitarian areas in the north portico that are accessed temporally from outside from the roof area. I would think that there are times when uniform division officers might escort them just to the mechanical room and back out.
Q But certainly, let's say, the exercise room would be an area escorted by TSD?
A That's correct. I should clarify that it also is dependent on the type of work, to a certain extent, that is going on. TSD is responsible for work that is behind any wall, above a ceiling. Their intent is to safeguard anything being put there that shouldn't be.
Q Okay. Are there specific officers that you've become familiar with within TSD who have been regularly assigned to this task?

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A There are officers that I have known throughout the years.
Q Okay.
A But it is a pretty large pool --
Q Okay.
A -- because a lot of them travel with the President.
Q Right.
A And we do, probably, our most intensive work when the family is not there in their living quarter areas, which makes it difficult for TSD, of course.
Q But there is a large pool of TSD officers. There are not any one or two or three that stand out in your mind as regularly escorting?
A There are probably a half dozen that quite often would be one of the ones or at times there might be two or three, depending on the quantity of work.
Q Could you just briefly give me the names of those that you could remember?
A Last names?

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Q Yes.
A I wouldn't know last names.
Q Well, first names will be fine also.
A Well, there is one guy named Jim, I think one guy named Dave. Park Service would know them far better than I do. I mean, I know them virtually all by face.
Q Okay. Great. I'm just concerned that TSD may not keep a log as to the assignments, but that is fine. We can pursue that in other avenues.
Let me move on now and ask with respect to these escorted contractors, what is the procedure. What is the understanding with respect to materials or information that they encounter as -- first let's talk about information; keep private?
A Yes.
Q All information should be undisclosed?
A We have -- and I have done this as well. We always give a contractor an orientation talk when they come there. We stress that, you know, this is the home of our First Family. We try to stress the historic nature of the building and ask their

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sensitivity to that.
We are trying to maintain a good communicative effort between the government and the contractor, which is somewhat unusual in normal government construction, ask that they be sensitive to the building itself, in terms of their workmanship, tell them point blank that they may or may not come in direct contact with the First Family members and may see things or hear things that they are asked to keep to themselves. And that is something that is repeated usually several times during a long-term project.
Q Certainly repeated several times during this project, the HVAC project --
A Yes.
Q -- which I understand has been ongoing since 1993.
A That's -- it actually goes back farther than that from a design standpoint, but on-site construction, about a year and a half into it. So really it would be '94.
Q '94?

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A That's correct.
Q And it still is continuing?
A Yes, probably another year and a half to go.
Q Great. So the orientation is similar to the speech that Gary Walters gives to a perspective hire?
A Yes. It is certainly oriented more to a construction worker. Generally, I'm the one that does that and we are trying to, you know, appeal to people, that we get their best effort. We tell them things like point blank watch your language. You never know who could be a couple rooms away that might overhear a conversation. Common sense.
Q I'm concerned with respect to protecting the privacy and the confidentiality of the First Family. With respect to that, what are they instructed to do when they see materials that are lying in their work area?
A Well, normally there would not be anything.
Q Okay.
A And I guess we are both kind of qualifying

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what "that" might be.
Q Okay. Sure.
A If everyone has done their job properly, normally there wouldn't be anything that we would consider sensitive.
Q Do you instruct the construction workers not to disturb ambient materials?
A Absolutely. They are asked not to touch anything. If they need something moved, they're to ask either the National Park Service or a member of our staff, if they are present. That means even a chair, a piece of furniture.
Q Okay. And if do they need something moved, that is, if something is in their way or something like that?
A That's correct.
Q And it has to be a member of your park service or your staff?
A That's correct.
Q And by "your staff," do you mean the Executive Residence staff or do you mean the usher staff?

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A The Executive Residence staff.
Q And then, of course, whoever does it seek the -- make sure it is authorized --
A Correct.
Q -- and proper?
Do members of your -- do members of your staff also provide on-site escorts for the construction workers?
A At times, if we are trying to work in multiple locations at the same time, because we are trying to accomplish as much work as we possibly can, again, generally that's when the family would be gone. There have been times when we don't have enough escorts available from the Secret Service and we would supplement that.
Q And the same procedure if they need something removed, they would talk to their escort, be it the Secret Service or Park Service or a member of your staff?
A And that person, at times, is going to use the judgment, I can do it. It might be a member of our engineering group that could be there and it's a

matter of moving a chair. There is no point to make three phone calls to move a chair when they know how to do it and they can do it.

Q And then what happens to that chair when the work is finished?

A Generally our housekeeping crew comes behind the work once it's completed, does finish cleanup, vacuuming, or whatever is necessary. The contractor does the initial cleaning cleanup, including vacuuming and that sort of thing. But if there were drop cloths and things like that, of course, they would be left until the very last day.

Q And the chair is moved back to where it was before?

A That's correct.

Q And do you ever move furniture around the room unless -- when you are not instructed to do so by the member of the First Family or a member of their staff?

A If we need to do it in the course of this project, sure.

Q But then do you replace them at the end of

the day?

A Yes. Unless the work continues throughout.

Q Of course. When you're finished, you replace it whenever you don't need access to the area anymore?

A Our goal in any space would be that it looks the same as it did prior to the work, of course.

Q Does that include other materials, not heavy furniture like a chair -- not even something as heavy as a chair, but let's say a pile of books?

A It could if it was in the way, or if we thought that it was possible that some dirt or dust might fall on it, that sort of thing.

Q And you move it and then move it back?

A We would or we would cover it, depending on the location and what was to be done.

Q So really, your true objective is to leave everything as you found it before and after the work?

A That's correct. Certainly our intent would be that the occupants of the house would walk into a space after we had worked and wouldn't know that we

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had been there.
Q So is it safe to say that the members of your staff are not expected -- are expected not to remove anything from the residence?
A Yes, sir, I would say that is correct.
Q Does it also follow that the members of your staff are expected not to place anything in the residence?
A That's correct. Certainly.
Q Is it then also expected that the construction workers would not remove anything from the residence?
A That's correct.
Q And not to place anything in the residence?
A That's correct. And of course that doesn't include the new things that they are involved in.
Q Or mops and brooms or other incidental tools of the trade.
A Yes.
Q And they are to notify a member of your staff -- the construction workers; that is, they are to mention it to a member of your staff if something

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needs to be moved?
A Yes, generally the park service or the escorting person will be familiar enough with the work that they would know right away.
Q Okay.
A Most of the time, the way it would work is that they would call the usher's office and say we need access to a certain place, a certain area, we need to have a chair and couple of tables moved or something like that. And that is for the more minor tasks, if you will. The major tasks, of course, there is planning. We might literally take every piece of furniture, everything out of a room, depending on how extensive the work is.
Q Okay. Great. In that note then, let me just move you to some specific locations that I would like to ask you about with respect to this HVAC project that is ongoing.
A Okay.
Q Let us start by me showing you a diagram and then we can all work off that. Let me ask the court reporter to mark this as Exhibit Freemyer 1.

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(Freemyer Exhibit 1 identified.)
BY MR. DINH:
Q And let me ask to you and represent to you to understand this to be a rough sketch of the architectural plan for the third floor. Does it appear to be so to you?
A I would agree it is a rough sketch. There has been some changes in some walls since this drawing was done.
Q It is not only rough, it is also old?
A That's correct.
Q Can you specifically tell me what changes to what walls have been made with respect to what is identified as room 320, 321 and 322?
A Certainly. The wall between room 320 and 321 has been removed.
Q Could you go ahead and mark that on the thing.
A Sure. Just go through it like that.
Q Right.
A And a portion of the wall between 321 and 322 has been removed.

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Q Okay.
A There were closets there, so this is not here.
Q So there is only one closet there now?
A Actually there is no closet.
Q There are no closets there?
A That's correct. There is duct work.
Q There is duct work. That is just duct work that goes inside a column or something?
A Yes. It is behind a wall surface. So in essence, it is a passthrough between these two rooms.
Q Between 322 and 321?
A That's correct.
Q But 321 and 320 is now one room?
A That's correct.
Q Is the bathroom still there?
A Yes, it is.
Q And what is identified behind door 352?
A That's correct.
Q And everything else remains the same as is?
A Yes.
Q And is that commonly known as the exercise

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room?
A The three rooms: 320, 321 and 322, yes, sir.
Q Okay. With respect to 319-A -- what is identified here as the sitting room 319-A, can you tell me if there are any changes that have been made to that room?
A No, that looks accurate.
Q Okay. And room 319?
A That looks accurate as well.
Q Okay. And do you know to what use is room 319 currently being put?
A 319?
Q Yes.
A 319 is used, I believe, for the storage of table cloths, linens, some of our maids actually, I believe, press some things in there as well. Primarily a storage room.
Q And 319-A is what is commonly referred to as the book room?
A That's correct.
Q And can you tell me whether door marked 341

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is usually functional.
A No, that's blocked.
Q That's blocked?
A That's right. 342 is the active door on that side of the room.
Q And 342 opens to what is known as the main hallway?
A Yes.
Q Okay. And let me direct your attention now to room 323. Could you tell me if there are any modifications with respect to that room?
A The walls immediately south of the wall dividing the room from the main corridor are no longer there. There are closets that are indicated are no longer there.
Q Could you go ahead and mark those on the drawing.
A Sure.
Q So the door number, say, 357 and 360 are no longer there because the closets are no longer there?
A That's correct.
Q Is that just open space now?

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A Yes.
Q Okay. What about with respect to the door to the closet that is labeled 359?
A That is still there.
Q That is still there?
A Yes, sir.
Q And the bathroom is still there?
A Yes, it is.
Q And when did the two closets in 357 and 360 -- when was that removed, do you know?
A No, it has been a number of years now.
Q Okay.
A I'm certainly -- I'm not sure if it was even done in the Reagan administration. It's been a number of years.
Q Okay. It has been a number of years?
A Yes.
Q Let me direct your attention -- certainly before 1992?
A That's correct.
Q So that wall -- that double wall there at the entrance to room 323 is now just basically a

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single entrance, there is no closet on the sides of each one?
A That's correct.
Q And so you walk into an open room rather than a closed foyer space?
A That's correct.
Q Now, let me direct your attention to the closet labeled 359?
A Uh-huh.
Q Has there been recent construction work done within the last year related to that closet?
A Yes, sir.
Q Could you briefly describe the work that has been done to that?
A This HVAC required the installation of what we are calling "temporary systems," the existing systems were demolished in the basement. And prior to that, we had to find a way to send conditioned air to the rest of the house.
Q Because people still have to live in the White House while the construction goes on?
A That's correct.

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Q Okay.
A The only way that it could be determined to do that was to put in temporary units. I believe there's a total of five temporary units now serving everything except for the second and third floor.
Q Okay.
A To do that, we ended up putting two temporary units on the roof of the residence, cut holes through the roof, and then had to find a way to tie into the existing vertical risers of duct work.
Q And these are not like your normal window units; there are much larger --
A These are very large units.
Q -- units that service the entire floors?
A Portions of floors.
Q Portions of floors?
A Yes.
Q And depending on the strength on the capacity of the unit, obviously?
A Yes, sir.
Q An then you tap into the existing duct work in order to distribute the cold air?

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A That's correct. The temporary units on the roof were put up with a very large crane, one by one.
Q And -- could you go ahead.
A The only way that could be determined to tie in one of the temporary units down to the lower floors --
Q Uh-huh.
A -- was to either use the bathroom of room 326 as a duct chase, if you would, or the closet of 323. I made the decision that we could not afford to remove a working bathroom that is used for guests at the White House -- it wasn't a very difficult decision and --
Q 326 is a guest room?
A That's correct.
Q And one of the guest bedrooms?
A That's correct.
Q Okay. Great.
A -- and asked the designers to further explore using the closet of 323.
Q And they did?
A Ultimately the decision was made that that

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was the only way to do it.
Q Okay.
A And that's correct. We did do that.
Q And what is room 323 used for?
A It is used now as an office area for Mrs. Clinton.
Q Okay.
A At the time of this construction --
Q And by the time of this construction, could you put a year and a month on that?
A Well, the beginning of, let's say, 1994.
Q Okay.
A And actually prior to that, this room was remodeled --
Q Okay.
A -- from what I understood, to be an office that would be used by Mrs. Huber. She was going to be doing -- you know, handle personal things for the First Family.
Q And then now it is being used by Mrs. Clinton?
A Yes.

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Q Okay. Good. So you have this -- so you have this plan in order to convert the closet in 323, the office that is joint -- that is, I guess we will name it jointly Mrs. Huber and Mrs. Clinton's office --
A Okay.
Q -- room 323, to convert that closet into a duct?
A A duct chase.
Q A duct chase in order to tie in the temporary air-conditioning unit to the existing duct work?
A That's correct.
Q Now, when was the actual construction of that duct chase?
A The actual construction occurred after the First Family left for vacation, which was in August of 1995.
Q Okay. In August of 1995?
A Yes, sir.
Q Were there preparatory work that had to be performed in the closet prior to the actual

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construction of the duct chase?
A Not in the closet itself.
Q Was there any asbestos problems that you were aware of that had to be treated?
A There was not any that I was aware of. We encountered it during the construction work and we anticipated it, in all honesty.
Q And so there was -- they had to -- after the discovery of this asbestos you brought in your asbestos subcontractor?
A We already had them there, anticipating that we would have that problem.
Q Now, let me ask you specifically with respect to the preparation of that project. Do you remember or do you have records indicating exactly when that happened?
A I think I can recall or I could certainly look on construction records.
Q Why don't you give me a rough estimate while I fish through my records here.
A You are interested in the date that the construction --

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Q Any work began on the closet.
A There was -- not above the closet but in the closet itself.
Q Right.
A The family left, if I recall correctly, on August the 15th, and I had made arrangements to have that closet available upon their departure.
Q Okay.
A And there was a delay in that occurring.
Q Okay. Let me just stop you right there. The First Family left on August 15th --
A Yes, sir.
Q -- for a vacation, I believe this was a vacation in Wyoming?
A Yes, sir.
Q You made requests -- you made a request that the closet be made available, that is, I take it, to have the closet be cleared of whatever material that may have been there.
A About three weeks to a month prior to their vacation.
Q Okay.

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A First of all, I asked permission could we use the closet for that purpose.
Q To whom did you ask permission?
A The first person that I talked to was Carolyn Huber.
Q Okay. This was approximately three weeks to a month before to their leaving, so somewhere in the mid- to late July?
A I would say mid July.
Q Mid July?
A Yes, sir. It was critical to the design of the temporary systems.
Q Right. Obviously.
A So we couldn't wait until the last minute.
Q We are talking about the August in Washington here so --
A Correct.
Q -- I could definitely understand your concern about the White House not having air-conditioning.
A Right.
Q So you asked permission in about mid July

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to Ms. Carolyn Huber?
A Yes.
Q And did she say yes?
A She said that she had no problem with it, that I would need to check with Mrs. Clinton as well.
Q Okay. And did you?
A I checked with her aide, Capricia Marshall.
Q And approximately how long -- approximately when did you check with Capricia Marshall?
A If not the day that I talked to Mrs. Huber, within a day or two thereafter.
Q So also in mid July?
A That's correct.
Q Did you get the go-ahead from Mrs. Clinton either directly or through Ms. Marshall?
A I got the go ahead through Capricia Marshall. It probably was several days, I guess before that came back.
Q Okay.
A Because I was -- I was beginning to become concerned about, is there any other way to accomplish this.

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Q Okay. All right.
A And the reason, I'm sure that you know, that I was asked to check with Mrs. Clinton was at that point of course she was using that as an office area as well.
Q Right. And do you know for what purpose?
A Using the office?
Q Yes.
A I think she was starting on her book.
Q Starting the book that has been recently published, the children's book?
A She probably had already started it. I know that she needed a place to get a way from the second floor, if you will.
Q And that place was the office?
A That's correct.
Q So somewhere around mid July she was starting to use this office?
A I think she had already been using it.
Q All right.
A Originally, as I said, it was remodeled for Mrs. Huber's use. And Mrs. Huber had an office in

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the east wing, and I think it evolved into more than a family space than originally they thought it would be. Chelsea went up there at times, certainly, to use a computer there.
Q She had a computer there --
A That's correct.
Q -- that she uses for papers or other school work?
A That's correct.
Q Do you recall approximately when Mrs. Clinton used -- started to use that office more on a regular basis?
A No, I really don't. It was, you know, over quite a long time.
Q Okay. But certainly by July of 1995 she had already been using it as a regular -- more regularly?
A Yes.
Q Okay. Great. So you, about a week later, you got the go-ahead from Ms. Marshall? You were concerned -- did you approach Ms. Marshall again?
A Yes. I don't think it was a week, I think

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it was several days.
Q Several days?
A Yes. And I just asked her if she had checked with Mrs. Clinton and if it would be okay and to make sure that she understood that, in essence, it was a demolition of the closet and it wasn't something that would be only a few months in usage. And she informed me that she had checked and that it was okay.
Q So you got a go-ahead. It was probably -- if we say, probably three or four days after your mid-July request?
A I would say that is correct.
Q And then what happened?
A Well, then we planned on using that route to designers and went forward with that concept and put together a plan on how we would cut the roof and tie things together.
Q Right.
A And we knew that we would have to remove the ceiling and floor of that closet and waited for them to go on vacation.

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Q And you said that there was some delay in clearing the closet?
A That's correct.
Q Could you explain.
A Talked with Capricia --
Q When was this?
A Probably a couple of days before their initial scheduled departure and if I remember correctly, the First Family delayed their departure a number of days; I think it was budget related, but I don't remember.
Q So we are talking about early August, say?
A I would say maybe August 10th or somewhere in that area -- just to confirm with her that we did still need to use that and that that closet would be available.
Q Okay. Would be cleared of whatever.
A Whatever was in it, if anything.
Q Did you know -- did you do a survey of the closet before you asked permission?
A I went and I attempted a look and it was locked.

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Q It was locked?
A Yes, sir.
Q And when did you attempt to look?
A That would have been, again, about a month prior to their vacation.
Q Mid July?
A At the point, we were in a critical design stage.
Q Was there any -- was there any time prior to August 15th that you saw the closet unlocked that you were able to examine the contents of the closet?
A No.
Q So then you talked to Ms. Marshall?
A That's correct.
Q Okay.
A Let me clarify that.
Q Sure.
A I had seen in that closet a number of times over the years, certainly.
Q Okay. Do you know what it is usually used for by the Clintons?
A By the Clintons, no.

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Q Okay.
A I just assumed there were personal things in it or whatever.
Q Okay. So you talked to Ms. Marshall on or about August 10th?
A Uh-huh, just to confirm that we still needed to use that.
Q Right.
A And she said that she would make sure that it was cleaned out.
Q Okay. And was it?
A No.
Q And when was it finally cleaned out? Or when did you discover that it was not cleaned out, first of all?
A I would say it was August the 16th. The family left on the 15th and we were ready to go full steam ahead on the construction work, but that was not one of our first priorities. So I'm sure on the 16th I went to check, because that was when it was becoming critical to start that demolition work. The office was -- the office -- the closet was still

locked.
Q Was still locked?
A Uh-huh.
Q Okay. And then, so did you -- who did you talk to then?
A I attempted to call Capricia Marshall.
Q She was traveling with the First Lady?
A No, she was still in Washington but she wasn't in her office, so I had her paged. She returned the page, I told her that we needed the closet cleaned out, and she said that she understood that and she would take care of it. That was the 16th.
Q Okay.
A The next day, you know, I was doing a lot of different things --
Q Sure.
A -- but at some point relatively early in the morning, I went back into 323. I think we had cut the hole in the roof. We were getting to a pretty critical point, and I checked to see if the closet had been cleaned out and it had not. And I

again attempted to call her and she wasn't in. I paged her later in that day. Probably the afternoon she called back, and she said I know what you are calling about, I know it is, you know, getting critical and I will take care of it for you.
Q And did she?
A As far as I know, she did. I can tell you the next morning that it was unlocked.
Q The next morning being the 17th?
A Let's see, they left on the 15th. No, it would be the 18th.
Q The 18th because the 17th was a --
A Well, the 15th they left, the 16th it hadn't been cleared out yet, the 17th it had not been cleared out.
Q And that's when you paged her again?
A That's correct, the second day. And the morning of the 18th, I went to check. At that point it was very critical in terms of being able to complete our work by the time that the family returned. It was unlocked, I opened it and it was taken care of.

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Q Do you know who cleaned out the closet?
A I believe she did.
Q Did she ask for help from the members of the operation staff?
A That I don't know. I wasn't present when she did it, as far as I know.
Q And if -- what is the procedure that she would call up to whoever is the duty usher and ask for some help?
A That's correct.
Q And that person would call down to operations engineers --
A That's correct.
Q -- in order to help?
A Depending on what time of the day it was and what other activities were going on, as you could imagine. When the family leaves, it is just a massive flow of people in an effort to try to get as much done as possible.
Q Okay. Sure. Great. And then work started on the 18th of August, I take it then.
A The work started in the demolition of the

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closet. There was a lot of other work going on related and not related to that.
Q Right, right. I meant --
A The minute the helicopter clears the fence --
Q I meant with respect to the closet itself.
A That's correct.
Q And when you said there was some work done above the closet, that didn't include the demolition of the closet?
A Correct.
Q That was in the roof in order to --
A In the attic.
Q In the attic?
A Directly above.
Q Access to which you do not need through the office itself?
A Correct.
Q You gain access elsewhere?
A That's correct.
Q So that work above did not disturb the office in any way?

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A That's correct.
Q Okay. Great. Let me show you then document numbered S 020167 and ask you to study that. This is a daily log of construction.
A Uh-huh.
Q Great. And can you identify where the work was done in the closet?
A It would be here by GCS, which is the subcontractor that does asbestos abatement. If I recall correctly, I think the ceiling in that closet was sloped because of some existing duct work. It is a very small closet to begin with. When they started cutting or demolishing that ceiling, I believe that is where they encountered the asbestos. And again, we anticipated that it would be there. We may have seen that from the attic, but I don't remember specifically.
Q And then, so they encountered the asbestos. And so that notation there is abatement of asbestos in the closet?
A In the closet, that's correct. They would polyethylene it to isolate it from the other areas

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and start to remove the material that contained asbestos and --
Q And could you the read the date of construction?
A The 18th of August.
Q And that's consistent with your recollection and testimony earlier?
A Yes, sir.
Q And when you say "they polyethylene it," they just put a -- what do you call it, decontamination unit?
A They put a plastic sheathing and it is taped in place. And the decon unit is like a little vestibule, if you will, that allows workers to go in and out and not contaminate the air outside of that area.
Q So basically, isolate it in plastic?
A That's correct.
Q Because the asbestos can -- is --
A Air friable.
Q It is friable. So they contain it and put it in this vestibule in order to assist in the

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cleaning up?
A That's correct.
Q And then they clean up the air all within this vestibule?
A What they do is they remove the material -- generally they put it into bags that are made specifically for containing it. They use what is called a negative air machine, which creates a negative air pressure within that containment structure to make sure that no material, if it is released into the air, gets out of that area.
Q And in installing this contamination unit and plastic sheathing and everything that associated with it, do you recall if there was a need to move additional materials in or around the closet?
A No, I do not. I don't believe that there was.
Q Okay.
A Certainly not in --
Q Not in the closet because it was cleared before?
A That's correct.

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Q And then the vestibule was just extended outside the closet a little bit?
A Yes. If anything needed to be moved it would have been -- there is a desk somewhat near there, but it would have been a very minor operation, if you will.
Q Okay. But you don't recall any specific request to move anything?
A No, I do not recall a specific request.
Q Okay. Thank you. Let me move now to the construction work that was done in the exercise room, or at least the construction work that needed to gain access through the exercise room.
A Okay.
Q Could you tell me what kind of work that is, is that work out on the promenade --
A Yes.
Q -- I take it?
A Yes, the promenade runs around the entire perimeter of the White House.
Q And it is an outdoor promenade?
A No, well, the promenade -- yes, it is

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outside deck, if you will. The White House steps in above the second floor, and then the third floor projects on up, so there a walkway around virtually the entire residence at that level. Underneath that walking service, if you will, the promenade is a crawl space.

Q Okay.

A It is about 3-1/2 feet high. There are multiple entry points into that crawl space and utilities are located in there, including duct work.

Q So you, as part of this project, you need to install some duct work or fix up some piping?

A Piping, electrical, duct work, control work.

Q And one of the points of access is through the exercise room?

A Yes. That one portion the promenade was accessible from the exercise room.

Q Now, in the period -- in the period in July and August of 1995, was there such access gained through the exercise room?

A I'm sure that there was. There has been

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throughout this project.

Q Okay. And it continues right now?

A On a very sporadic basis. Now it would be more, if there was a problem. We're pretty much completed with that area.

Q Who was the subcontractor or contractor that would be doing this duct work or piping work?

A The duct work would be CMC, the piping could be JCM, there was some electrical which is Harrison & Palmer and there was control circuitry as well, which is a company called EMS.

Q And let me represent to you now and -- let me show you four documents now and represent to you that they are the four documents that I've discovered through the daily logs of construction for July and August of 1995 that show work in the 321 promenade --

A Okay.

Q -- and ask you to verify whether that work required entry through the exercise room.

A Okay. I can certainly try.

Q The first one is S 020123 for August -- for July 26th, 1995. And I believe under JCM heading,

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the contractor installed piping in 321 promenade?
A That's correct.
Q Did that require entry through room 321 or the exercise room?
A Yes, it should have.
Q Okay.
A And the reason that I would like to stress "should have"; it is possible to crawl from one area of the promenade to another.
Q Okay.
A If I could show you on your diagram.
Q Okay. Why don't you go ahead and mark it on your diagram there?
A The access point is approximately here. That may be what this is indicating. There is a little hatch right here.
Q There is a little hatch right there. Okay. Write that down "access point."
A Okay.
Q Okay. And there are various other access points to the crawl space?
A That's correct, around the perimeter.

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Q Oh, it would be rather inefficient, but certainly possible that someone could crawl into one access point and crawl to the other access point?
A Depending on where it is and the amount of utilities that they would encounter. There are places where it is impossible to go from one area to another just because of the number of utilities in there.
Q So when you say it "should," that would be with respect to that ability -- that possibility that someone could crawl from one access point to another?
A That's correct in the normal course of construction would be they would go through the exercise room through the access --
Q 321?
A That's correct.
Q Incidently, is there a VCR and TV cabinet in front of that access point?
A Yes, it's right in that corner.
Q And what do you do with the TV and VCR unit?
A Pull it out.

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Q You pull it out?
A The whole piece of furniture, if you will, that it sits in actually was made --
Q Cabinet?
A -- cabinet was made by our carpentry shop.
Q So you pull it out to one side?
A Kind of rotate it. It is pretty heavy.
Q It takes two people?
A Yes.
Q So I take it that the contractors don't do that themselves?
A That's correct.
Q You do that or Park Service people, the monitors do that?
A That's correct. And 99 percent of the time, if not 100 percent, it would have been our staff.
Q Great. Because it involved a piece of furniture that is in the White House?
A And it is something that the First Family uses, and we are very sensitive about other people.
Q So you move it out?

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A Uh-huh.
Q A contractor crawls in, does whatever he needs to do, and crawls back out?
A That's correct.
Q And what do you do with the VCR and TV?
A Once the work is completed for the day, the access hatch would be closed and it would be rotated back into position.
Q So as soon as it is no longer needed, that is, access to the hatch, you would put the furniture right back to where you found it before?
A Right back in that corner, that's correct.
Q Consistent with your policy and practice as you testified earlier?
A Yes.
Q Great. Let me show you in 727 S 020125 the same thing.
A Okay.
Q Again, JCM installed piping in 321 promenade --
A Correct.
Q -- gaining access most probably through the

room 321?
A Yes, sir.
MR. IVEY: What was the document number?
MR. DINH: S 020125. That was July 27th.
BY MR. DINH:
Q And just to speed things up, I will represent to you that the same thing happened on the next day, 7/28, on document S 020127, again consistent with the --
A Might point out that I'm certain that access went through that area on many other days.
Q On many other days?
A Absolutely. The logs are certainly not definitive on every place, every access. They are general in nature.
Q Okay.
A As much as humanly possible to itemize things.
Q Because presumably there could have been work outside of 321, but the access was gained through there?
A That's possible. And again, I think what

the log shows are the items of major work, if you will. It is quite likely that if one needed access through there to make adjustment in the control system or to do something very minor, that might not show up on the log.
Q Okay. Let me turn now your attention to room number 319-A --
A Okay.
Q -- what we have been commonly calling as the book room?
A Okay.
Q And do you remember if there was an incident in 319-A that required the patching of ceilings or patching of walls of that sort?
A Absolutely. There have been several cases of that.
Q Okay. Do you remember one specifically in 319-A?
A The one involving Ms. Marshall, I assume that you mean.
Q Yes, that is the one involving Ms. Marshall.

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A Actually there were several incidences, but the one with her --
Q Which occurred when?
A I would guess that was in July. A lot of work was done in the attic. And I don't think I could be any more accurate than that. It could have been before that. But what happened in that incident was Ms. Marshall was in the book room at a time when somebody either dropped something on the ceiling above or stepped on the ceiling above and she called and said, you know, help, the ceiling is falling, the plaster is falling on me and that sort of thing.
Q Did she call you?
A Yes, I believe it was me. If it wasn't me, somebody told me right away.
Q Okay. Right, right.
A And she was excited about it, shall we say. She, as well as the First Family, had endured months of hearing people working overhead. And the only way that we could accomplish that summer what we needed to do was to begin a lot of things months prior to. And the First Family and everybody was

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incredibly tolerant of the noises and everything that was required to do it. That incident, a small piece of plaster, it was mainly paint, in my opinion.
Q Approximately what size?
A Oh, couple inches.
Q Couple inches in diameter?
A Yes, and it was more paint than plaster, and there were some fragments of plaster fell. And I believe it hit her on the head or landed right next to her. And her feeling was you know, what's next, the whole ceiling?
Q I believe here exact quote to Mr. Ivey was "I thought a man was going to fall on my head."
A That sounds like her. Yeah. And that came about during the time when we were -- when I really was pushing the amount of work that we were trying to do with the First Family in the residence.
Q Okay.
A And that's a delicate balancing act, to be honest with you.
Q And then you just sent somebody to patch up the ceiling?

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A We did that at a later time.
Q At a later time?
A Yes, we did sent somebody. I asked the Park Service to look to make sure that it wasn't a dangerous situation in terms of was something laying on the ceiling that was heavy or had a plaster support been broken above. I personally did not go into the attic. I did go into the book room, though.
Q In order to make a visual inspection?
A That's correct.
Q Do you remember where that particular piece of plaster fell off from, and could you go ahead and put a X wherever that was?
A I think it was in the south -- excuse me, I think the northeast corner. I guess it was somewhere in that area.
Q Over by the video shelves; is that correct?
A I believe the video shelves along here.
Q Okay. Great. Let me -- and at some point you said at a later date you patched that up?
A That's correct.
Q Let me show you a document labeled S 020123

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reflecting the daily log of construction for July 26th, 1995 and ask you to look for the Callas, the entry for Callas there.
A Okay.
Q Is that part of the -- part of the repair for that ceiling and could you read -- by the way, could you read that for record?
A "Callas patch, 319-A ceiling and the 319 wall. There is some other information there pertaining to that.
Q That's okay.
A I don't know if that was patching that specific location or not.
Q Okay.
A There were numerous penetrations, if you will, into that ceiling.
Q Okay.
A There were some that were scheduled. We changed a ceiling diffuser. I believe there are two in that room where the ceiling had to be cut and a new defuser put in. The wall was also cut up high near the ceiling to put in a new return grill. It is

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quite possible that was that repair bill. I would think that it is quite possible.
Q Okay.
A The time would be --
Q Approximately consistent?
A Pretty -- it would follow that we would have tried to repair that relatively quickly to hopefully give some confidence to people that we could take care of that sort of thing.
Q About how long does that take?
A Well, a couple of days generally. In terms of the actual application, a minor repair would be a matter of a half hour to an hour.
Q A half hour, and wait to let it dry?
A That's correct.
Q Okay. Great. So actual work is about an hour?
A At the most.
Q At the most?
A If that is what in fact that was.
Q And of course whatever, and again do the same rules apply as to displacement of materials or

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covering of materials --
A Sure.
Q -- even for a minor job like that?
A Sure, absolutely. Everything where -- particularly anything that you are doing overhead we would always drop cloth things, if it was rug, hardwood floor or tables or move the things.
Q Do your in-house painters paint this?
A Depends on the location.
Q Say 319-A.
A 319-A I don't remember whether our staff did it. My guess would be that they probably did. Touching up, trying to blend is difficult. But it would have either been them or Callas may have done it.
Q But we didn't see an entry for Callas Painting, but they may have included that in the patching?
A Well, it would have been a while; you have to give it time to cure. And that may be something that was not done -- my guess would be that was not done until the family was on vacation in terms of

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painting.
Q Right, right. I think I could the represent -- I studied the records through August 30th and there were no painting entries for Callas. Is that consistent on your --
A Well, there was painting that occurred --
Q No, I mean with respect to 319-A?
A -- at that time.
Q 319-A?
A 319-A, that is quite possible. Quite possible.
Q So it would take about two weeks to cure and then the painting would come in?
A About a week. They use a quick-setting plaster, but that is relatively minor in terms of other activities that were going on certainly.
MR. IVEY: Off the record.
(Discussion off the record.)
MR. IVEY: Could you read back his last answer.
(The reporter read the record as requested.)
BY MR. DINH:

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Q Now, do you recall if there was any duct work or any type of other work related to the HVAC system in either 319 or 319-A?
A 319-A.
Q 319-A being the book room?
A That's correct.
Q What kind of duct work was it?
A There was a return duct that needed to be installed that involved cutting the wall --
Q Okay.
A -- in there. And it actually ran into a closet that is part of a room that is used by the chef.
Q Okay.
A That would be this closet right here (indicating).
Q The closet access to which is gained in room 318?
A That's correct.
Q Okay. Just go ahead and put an X in that closet.
A Sure.

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Q The wall --
A Would have been right about that location.
Q So the wall between the 318 and 319-A?
A The closet.
Q Right.
A Actually --
Q Great.
A It is probably 318-A, I don't know if there is a designation.
Q Okay. Great. Let me just then, on that note, show you some documents reflecting work done on August 21st through 23rd approximately, document S 020173 is a daily log of construction for August 21st. And can you read the work done by Callas there?
A "Cut duct holes in 317 and 319."
Q Is that part of the same duct work or is there separate duct work in room 319?
A I believe that would be the return. The return air duct work that I was describing.
Q Okay.
A Let me look at 317 and maybe that will kind

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of maybe jog my memory of where else we were working. Yeah, I think that was some work in here.
Q Okay.
A My guess would be that that was that return duct that it involved literally cutting a new hole in the wall and putting in a return grill.
Q So the log of construction was merely mislabeled; it is not 319, but actually 319-A is where the duct actually --
A No, there was -- I'm sorry. There was work in 319 right here as well.
Q Oh, okay. Okay. Right there being the what corner?
A That would be the southeast corner of 319, that was a return duct put in there that had given us some difficulty trying to locate it.
Q So that may have been that work in 319?
A That's correct.
Q Okay. Do you recall approximately when the work in 319-A the return duct that connects with the closet in 318 --
A I would have to look at the logs.

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Q Do you recall if it was within the time frame of July and August of 1995?
A If I was going to guess I would say yes, merely because, again, you know, that is something that would be disruptive to that room and we would try to accomplish it during the family's vacation, so my guess would be in August.
Q Late August, which would have been in --
A Right.
Q It could have been later?
A Possibly.
Q Okay. Could it have been earlier, do you think?
A That is possible as well.
Q But you have no specific memory?
A I would doubt that it was much earlier.
Q Okay.
A I think I could probably find it in the logs if it is there.
Q Right.
A Well --
Q We found no other references to 319-A

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except for in this two-month period we have these references to 319 are the only ones that we have during this period --
A Okay.
Q -- from my examination of the documents.
A It could have been cut, you know, later I think.
Q More probably later?
A More likely.
Q Because, of course, the temporary unit did not come in until August 18th.
A Let me clarify the temporary unit so that I don't create the wrong impression. The temporary units do not impact the second and third floor.
Q Okay.
A They are for the rest of the building, if you will.
Q Okay. What services the second and third floor?
A There is a new unit that was placed in the north portico prior to all of this work.
Q Okay.

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A We did the -- the First Family's area first.
Q So while this is going on, the second and third floor is well served by a new --
A HVAC.
Q -- HVAC unit that is completely permanent and not just temporary?
A That's correct.
Q Now, throughout these -- all three -- throughout the work done in all these three rooms which I've asked you in detail about, I assume then the same procedure with respect to moving or removing of any materials applies?
A That's correct.
Q If the contractors find something that is in his or her way, he or she would request that it be removed by a member of your staff?
A That's correct.
Q Do you recall any specific request for anything to be moved within this period in July and August of 1995 with respect to any of these three -- the work done in any of these three rooms?

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A I don't remember a specific request.
Q Okay.
A But I'm certain that there were numerous requests to move things or to other things.
Q Certainly to move the videotape machine and the TV?
A Yes.
MR. IVEY: And for the record, which three rooms are you referring to?
MR. DINH: I'm sorry, 323, the exercise room, which includes 320 through 322 and 319-A, which is the book room. And I guess by extension the 319 which is the room off of 319-A, the linen room.
THE WITNESS: Correct.
BY MR. DINH:
Q You don't recall any specific requests?
A I recall that things were moved certainly, but I don't recall any specific thing that was requested. Normal procedure would be that we would require the contract to protect certain surfaces and put down drop cloths and cover things and that is before any work is started.

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Q Okay. But again, if anything was moved, it was put back to where it was before?
A As far as I know, yes, sir. I might add that most of the work in these rooms was not terribly disruptive to the rooms --
Q Okay.
A -- with the exception certainly of the closet. We took out the floor and we took out the ceiling and we eliminated -- now there is a hole there, if you will, that you could look up and you could look down.
Q How many people would it take to plaster a ceiling or the small section of the ceiling that we were talking about?
A Probably one person.
Q One person?
A Maybe -- I guess maybe a person to assist if they were working on a ladder.
Q Right. Right. Just to hold it to make sure nothing falls?
A To hand them things.
Q How about in order to cut a hole for a

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duct?
A Probably the same thing. Probably two people.
Q Two people. Okay. Cutting the hole in the closet or closet floor and ceiling in order to put in the duct?
A I believe two people did that. I certainly looked in on that a couple of times because it was very critical from a time standpoint. We were concerned about how thick the concrete was in the floor and how long it would take.
Q That took place in room 323 and not the book room?
A That's correct.
Q And there was no access needed through the book room to get to 323?
A That's correct.
Q And the doors, as a matter of fact, are kitty-corner rather than just near each other and through each other?
A Correct.
Q Now, with respect to access gained to the

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access point to the promenade crawl space through the exercise room --

A Yes, sir.

Q -- how many people would be involved in gaining access there in order to install pipings or duct work?

A Generally it would probably be one or two people.

Q One or two people?

A It is a small space.

Q Uh-huh.

A There would be an escort.

Q Uh-huh. And the escort would not crawl into the crawl space, I take it?

A Usually he would stand in the exercise room. They, at times, will go in, I think as much just to get an idea what they are doing.

Q Right.

A But they are certainly not required. They can't go anywhere from there, if you will, to speak of.

Q And, of course, one of the functions of the

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escort is to make sure that nothing is left there?

A That's correct.

Q So he would perhaps make a visual inspection of the crawl space after the person has gone out?

A Generally I think that they stick their head in, look a little bit just to make sure that they didn't forget a tool or leave a light on or something of that nature.

Q But, of course, one of the security concerns is that something is left there?

A That's correct. Absolutely.

Q Who knows what can be left in a sensitive area like the White House?

A Sure.

Q And hypothetically, let's say if the escort finds that there is something left there he or she will just investigate and advise the construction worker that he or she had left something?

A I guess it would depend on what it was.

Q What it was. Obviously, a flashlight, they would just take it and say you forgot this?

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A I think that would be a routine thing.
Q Something more dramatic probably takes more dramatic action?
A Sure.
Q Now, when a person -- if you can study the diagram that has been marked as Exhibit Freemyer 1, when a person -- one has to enter the book room 319-A in order to gain access to the exercise room; correct?
A Correct.
Q The two doors are kitty-corner to each other; correct?
A The two --
Q I'm sorry. The doors, that is the entrance to the book room and the entrance from the book room to the exercise room; is that correct?
A That's correct.
Q Approximately how long of a space is that separating the two doors?
A Between door 342 and door 355?
Q Exactly.
A Five or six feet.

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Q Five or six feet. Two steps?
A Two or three.
Q Let's say if I were a contractor escorted by whomever was escorting me, by the Secret Service or a member of your staff, and I need to gain access to the access point in the exercise room, would I have any need to be in the book room other than the two or three steps in order to gain access to the exercise room?
A To gain access to the exercise room, no.
Q Okay.
A However, you could gain access by coming in door 340 as well.
Q Right. Which is the normal point of access for the contractors?
A It really depends on what time the construction activity was going on.
Q Okay.
A The service elevator, which is located on the west end of the building --
Q Right.
A -- was one method of the contractor

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accessing this floor. The other method was an outside lift that has been temporally installed and they would gain access from the roof.

Q Okay.

A And they are on opposite ends of the building, so conceivably they would come in opposite directions.

Q Right.

A Last summer, for the most part, I would say since this entire corridor was impacted with construction, that there were certainly drop cloths and possibly the carpeting was even rolled up. I believe it was. So the majority of access I would say would have come from this area.

Q 342?

A Door 342.

Q So from the main hallway and taking the two steps through to the exercise room?

A That's correct.

Q Okay. Let me ask you now a little more generally regarding people having access or people that you've seen working in the book room other than

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the contractors.

A Okay.

Q Do you know if Ms. Capricia Marshall works there on a regular basis?

A She is in there and I don't know if on a regular basis I would characterize it. I have seen her in the book room a number of times or certainly over a period of months.

Q Okay. Great. At least once a week?

A I would say I have not seen her there once a week, but, you know, there would be times when I would see her a couple of times in a week and then maybe not observe her in there for weeks on end. It would just depending on her duties to Mrs. Clinton.

Q Does Ms. Huber -- have you seen Ms. Huber in the book room?

A I have.

Q And what does she do in the book room?

A I think at times she goes in, either organizes some of their things. She worked for quite a period of time organizing the books, placing them on the shelves and, I guess, cataloging them.

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Q Do you remember when this period was?
A I would say relatively early 1994.
Q Okay. She was not doing this in July or August of 1995?
A No, she was not doing that in July or August of 1995.
MR. IVEY: I'm sorry, what was date that you said?
THE WITNESS: I would say early 1995 and possibly earlier.
BY MR. DINH:
Q Anybody else in the book room that you've seen working or --
A During this time period?
Q During July and August of 1995.
A Probably not working.
Q Okay.
A I mean, I have certainly seen other people in there.
Q What were they doing in there?
A They might have been arranging videotapes on the wall.

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Q On the video --
A Okay. The book room is kind of a transition room for a lot of things.
Q So a lot of people put things in there in order to catalogue. A lot of people take things out?
A Well, it was a place where things could be placed, I think, for the First Family to take a look or decide what they want to do with them. Whether it was a picture or something, there is no other way to describe it.
Q And who would put the things in there?
A Our staff at times would be requested to put things up in the book room.
Q Requested by who?
A Probably either Capricia Marshall perhaps, Carolyn Huber maybe. Things might come from what is called the gift unit, and generally we would check to see where should we put those things.
Q And they would go -- some of them at least would go to the book room?
A Some things would go to the book room or we might pick things up in the book room as well.

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Q Do you recall a specific occasion in late July or early August 1995 when Ms. Huber requested help from your staff in order to move some boxes down to her office?
A I recall her asking probably me --
Q Okay.
A -- and I don't remember, you know, a specific date.
Q Okay.
A It was not unusual at all for her to call our office and say, you know, I've got a box that needs to be carried over to my office or I have got a box that needs to be carried over to the gift unit or that sort of thing.
So I think that the most accurate way that I could answer that is I'm relatively certain that I have taken a call during that period from her to do that.
Q But you don't remember any specific, any specifics on the thing?
A No.
Q Do you remember who you assigned, in the

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operations unit or in the engineering unit, in order to help her with that?
A No, I would have just picked up the phone and called one of the two and to be honest, I'm not sure which one. It would depend, again, on the activities and what was going on and whoever answered the phone is the person.
MR. DINH: Okay. Actually, is this good time to take about a five-minute break and then I'll be right back; is that okay?
MR. IVEY: That's fine with me.
(Recess.)
MR. DINH: Back on the record.
BY MR. DINH:
Q Let me ask you some questions that I have regarding other construction workers that were provided to us by the White House, and these I believe are the daily payroll reports from the individual contractors.
A Uh-huh.
Q And let me just show you a document as a representative of document numbered S020196 and ask

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you to study that.
A Okay.
Q First of all, are you familiar with this, with this document?
A No. I've never seen this document.
Q You don't -- you don't deal with payroll reports?
A No, sir, I do not.
Q Do you know who these documents are submitted to?
A I'm sure that they are submitted to the National Park Service.
Q Okay. Do you know who compiles the daily log of construction?
A It would a member of the National Park Service. I guess it would depend on who was working that day.
Q But it would be a National Park Service that compiles the national daily log of construction that we were talking about earlier before?
A That's correct.
Q Which you are familiar with?

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A I have seen those on occasion, yes.
Q Okay. Great. Let me just ask you to study, then, document labeled S020227 and likewise ask you if you have seen a document like this. It is again another certified payroll register.
A I have never seen a payroll actually before today.
Q Okay. Great.
A I have seen similar things on other jobs certainly that I worked.
Q But not in your --
A But not in my capacity --
Q Not in your capacity as a White House project manager?
A That's correct.
Q In your other job, meaning your architectural jobs?
A That's correct.
Q And others?
A And jobs at the White House.
Q At the White House?
A But not this job.

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Q For the National Park Service?
A Correct.
Q The daily payroll report or the contractor payroll report is something that is common to project management?
A That's correct. For project supervision I think would be more accurate.
Q Okay. Great. Every subcontractor would submit this to the general contractor or to the project manager?
A I think each sub has to submit it to the general and then the general will submit it to the National Park Service.
Q That would account for the time spent on each particular task on each particular project?
A It would be the time spent by each individual person. I do not think that it would be identified by task. I think that it would be more discipline.
Q Without that, each subcontractor and therefore their individual employees would not get paid?

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A That's correct.
Q They need this in order to release the funds or in order to meet immediate payroll obligations?
A That's correct. Part of the reason is that this is a time-and-material contract so that the number of hours have to be verified for the government to pay.
Q Oh, this is a time-and-material contract?
A Yes, sir.
Q It is not a fixed-cost contract?
A That's correct. Which is quite unusual in the government.
Q Right. Right. Let me ask you to study again just a representative daily log of construction so that I get an understanding of the document. I'm showing you S020087 which was the daily log of construction for Wednesday the 5th of July 1995. And let me ask you to study the second box there that is labeled "number of contractors, men by job categories."
A Okay.

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Q And it lists the various things. Is it my understanding, and again, I'm just trying to gain an understanding of these documents, is it my understanding that the numbers listed individually there should total up to the same number that is listed for each day in the various subcontractor payroll reports for each particular day?
A Generally, yes.
Q Okay.
A But not always.
Q Okay. Could you explain to me the circumstances under which they would not match up?
A If a person was working off site --
Q Okay.
A -- on this project and that could be either at fabricating something back in a place of business.
Q Uh-huh.
A We have what is called the executive support facility, that is a warehouse facility, and the contractor has been given space out there where they can store materials and equipment and they also do work out there as well.

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Q Okay.
A Those two immediately would come to mind.
Q So the daily log of construction only records on-site work?
A Yes, that's correct.
MR. DINH: Okay. Thank you very much. Off the record.
(Discussion off the record.)
MR. DINH: We are back on the record.
BY MR. DINH:
Q Okay. Again, I want to return to a line of questioning that I was pursuing earlier respecting the request that you may have received or you or a member of your staff may have received to move various things --
A Okay.
Q -- related to the construction work that is being done either in the book room, the -- and by the "book room" I mean 319-A and 319. That is, the linen room off the book room, the exercise room; that is, 323, 321, 322, the three rooms that are now made into one.

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A Okay.
Q And the office; that is, room 323 that is now being used by Mrs. Clinton as Mrs. Clinton's office. With respect to the construction work that was done to those three rooms in the period of July and August of 1995 --
A Okay.
Q -- you testified earlier that you remember various occasions where you or a member of your staff was asked to move things out of the way?
A Correct.
Q And then, of course, they were replaced?
A Correct.
Q And they were replaced after you were done with them?
A Unless it was something that we were asked to remove permanently, certainly.
Q And one of the -- one of the examples of that is the TV and VCR cabinet?
A That's correct.
Q Which had to be moved whenever access needed to be gained through the exercise room out

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into the promenade crawl space?
A Correct.
Q And do you remember any other specific requests with respect to -- move any materials with respect to the work associated with the closet in 323? I think I've asked you this question before but just for thoroughness.
A Could you ask me that again, please.
Q Can you -- other than your initial request to Ms. Marshall to clear the closet?
A Uh-huh.
Q Can you recall anybody else, any of the contractors, asking you or another member of your staff, to the best of your knowledge, to remove any additional materials so that they could go on with their work?
A Other than what I mentioned before, if there was something around the door of the closet itself that made it difficult to put up that plastic enclosure, no.
Q Okay. Do you remember any request with respect to the materials around the door?

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A I vaguely remember something being in the way, whether it was a chair perhaps or there is a built-in book case that I'm sure was not moved and there was also a desk. Maybe the desk might have been partially in the way. I kind of vaguely remember that. The enclosure grows pretty large.
Q Right. This is the decontamination area?
A That's correct.
Q Did you -- did you or did you have somebody else move any records or books either on the bookshelves or lying in or around the door?
A No.
Q Just actual physical furniture, that is, a chair or a desk?
A I would say so. If there was anything there, it would have been moved a foot or two --
Q Right.
A -- and left.
Q Right. You mentioned that on the 18th of August, in the morning of the 18th of August, the day after you placed a second call in to Ms. Marshall?
A Correct.

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Q You came and unlocked -- opened up the closet and it was cleared?
A That's correct. It was not locked.
Q It was not locked. You opened it up?
A Right.
Q And previously it was locked?
A That's correct.
Q And now it is not locked and you open it up and see that it was cleared?
A That's correct.
Q Was it completely empty?
A That's correct.
Q There was nothing else in it?
A Not.
Q No papers?
A No.
Q No trash?
A No.
Q Okay. With respect to the -- with respect to the patching of the ceiling in room 319-A.
A Okay.
Q Do you recall any specific request in order

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to move or to -- to move any furniture related to that patching work?
A The only thing -- this is a very vague recollection.
Q Okay.
A But my guess would be because of the location we might have needed to move a table. There was generally a large table in that room --
Q Okay.
A -- or a combination of tables. Sometimes there would be one, sometimes there would be two and various -- so it is quite possible to do that work in that corner, we might have had to shift a table.
Q Okay.
A We wouldn't have removed it from the room.
Q Shift a table for an hour or two and then shift it back?
A Or shift it and leave it for a couple of days depending on when the work occurred. If the family was gone, generally we would wait to reset rooms because we had other work to do.
Q You mentioned that there was usually a big

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table in that room.
A That's correct.
Q Is that separate from a smaller cart that may have been worked as -- that may have been used as a flat surface also?
A Like a rolling cart?
Q Yes.
A Quite often there was a rolling cart.
Q There was a rolling cart?
A Yes.
Q Could I ask you to take your pen again and to the best of your ability and recollection, draw for me the proximate location and size of that big table that you were testifying about.
A Well, there was, certainly was more than one table at times.
Q Okay.
A During that period, my guess would be that there was a table probably something like this.
Q Okay. Now, what kind of table is this, do you know, approximately how long, how big?
A It was a folding table probably. Well,

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when there was only one, I would guess that's six to eight feet long.
Q Six to eight feet long, a folding table, the kind that caterers use, the folding table?
A Yes, kind of like a plywood top.
Q More lighter weight and not a heavy oak table?
A Correct.
Q During this period of July and August of 1995, do you recall if there were materials or books or anything like that on the table?
A I don't recall specifically. Quite often there -- that table had many things on it, books, pictures, little objects, knickknacks, if you will, things of that nature.
Q Do you recall if there were any boxes on the table?
A No, I don't recall specifically.
Q How about underneath the table?
A Again, from time to time there were boxes quite often underneath the table.
Q Now, these are the same kind of materials

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that you testified earlier was, you know, brought in either from the gift section or from various other places in order to be catalogued or to be distributed?
A Correct.
Q This is the gathering point of all that material that you said that comes in?
A This was kind of a transition room, if you will.
Q And the table was the locus of that transition?
A That's correct.
Q Do you recall at any time whether -- you mentioned earlier that the First Lady started working on her book sometime in July?
A I think it was prior to that.
Q Prior to that.
A But I think that -- no, it was quite a bit prior to that.
Q Do you recall if there were outside persons helping her with her book? Somebody from a publisher?

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A There were people that came in that were working there with her.
Q Now, what space did they use in order to do that? Was it -- do you know what room that was in?
A During that time, let's see, during those two months probably was both 323 and 319-A.
Q Is there a computer in 319-A?
A Yes, there was then.
Q There was then?
A Yes. I don't know if there is one still there or not.
Q Against which wall would that be; do you know? Do you remember?
A I think the table configuration may have been different. I believe that there was a computer somewhere in this portion of the room.
Q Okay.
A I don't know if it was sitting on the table, separate table perhaps or maybe a computer cart that rolls.
Q Okay. All right. And the people who helped Mrs. Clinton with her book would sometimes use

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this room in order to do that work?
A Yes.
Q Do you remember what their names are?
A I could look at the log and recognize them.
Q Is Barbara Feinman one of them?
A Yes.
Q Is Betty Selatin one of them?
A Yes.
Q Besides those two, anybody else?
A Yes, I think there was another. Debbie. I believe it was Debbie.
Q Okay. Okay. I will ask you to look at the logs a little bit later on.
A Okay.
Q And now we will leave it at that. Now, some work occurred before they left on vacation?
A Oh, yes.
Q Including the use by the book people of the book room, I suppose?
A Yes, I'm trying to think back when the intense work on the book, when they were starting to try to really put it together, was, and I believe

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that was leading up to their vacation. I think there was, on Mrs. Clinton's behalf, she was trying to finish it before vacation.

Q So early August, late July, early August?

A Yes, if not starting sooner than that certainly but during that period, yes.

Q And the people associated with the book, that is, Ms. Feinman and Ms. Selatin would use sometimes the book room in order to accomplish that work?

A That's correct.

Q Do you remember -- do you know who Helen Dickey is?

A Yes.

Q Do you remember if -- do you know if she was in the White House visiting at this time around July and August of 1995?

A I think she was in town but I don't know if she was specifically in there.

Q Did you ever see her working in the book room also?

A During this period also?

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Q July and August of 1995.

A No, I did not.

Q How often do you go into the book room?

A During this period?

Q During this period, yes.

A During this period, I would say that I probably averaged once every three days.

Q Because of the construction work going?

A Leading up to it or if I needed to, if I happened to be in the office and needed to take an envelope to Mrs. Clinton or take something to the other ladies that were working up there.

Q Right. Right. Mrs. Clinton, of course, was working in 323?

A She was and at times she would be in there as well.

Q In the book room as well?

A Yes, 323.

Q But her assistants or whoever was assisting her with the book would be in the book room?

A She would be in 323.

Q She would be in 323?

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A For the most part.
Q Yes.
A She had a desk that she used in 323 that was her office.
Q And who would be in the book room?
A The other ladies.
Q The other ladies. Does Mrs. Clinton sometimes work in the book room?
A I think she did her work in 323.
Q In 323.
A But she certainly might walk in and talk to them.
Q Because they were assisting her in the writing?
A Yes. And they would conversely walk in and talk to her in 323.
Q So whenever you needed to take an envelope up to one of the ladies or Mrs. Clinton, you would enter either 323 or the book room?
A That's correct.
Q So you would enter the book room approximately once every three days, did you say,

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during this period?
A Yes, I'm guessing. The period, of course, after they left, of course, I was in it multiple times a day at times.
Q Right, right. Because you were doing the construction work?
A That's correct.
Q Okay. Great. Okay. I'm going to turn now to the logs to which you refer but before we do that, let me do some preliminary questions so that I understand the nature of these logs. Now, these are kept, I understand, by the duty usher?
A That's correct.
Q Now, where does the duty usher sit?
A On the state floor in the usher's office.
Q In the usher office. This is upstairs from F-1?
A That's correct.
Q Upstairs directly from the same staircase?
A Yes.
Q And the Secret Service officer keeps the official F-1 log at the entrance at the ground floor?

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A That's correct. The people that go upstairs --
Q Have to go to the second and third floor?
A -- via the elevator.
Q I'm sorry. Via the elevator?
A Via the elevator.
Q Could you explain.
A The people that come in, say, from the north portico --
Q Uh-huh.
A -- who do not pass by F-1 might go up to the second floor and they would not necessarily show up on the F-1 log. There is an officer outside of the usher's office that the normal routine would be to call down to the officer at the F-1 and advise that someone had gone up and identify them.
Q Okay. And that would be included in the F-1 log?
A That's correct.
Q So the F-1 log does not necessarily reflect only the people who come up through the elevator but also may be through the north portico?

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A That's correct. And again, there are opportunities -- there are times when people might come in again from the north portico and an officer might not be present at F-5 and go up. So it is possible that they would not show up on the log.
Q Show up on the log. Okay. Now, that is with respect to the Secret Service logs?
A That's correct.
Q F-1 logs?
A That's correct.
Q The official set of logs?
A Right.
Q What about your logs? From where do you get that information?
A We get information from the F-1 officer who would call up if anyone was coming up and also anyone passing through our office. Generally, we are aware of the First Family, of the people who go upstairs.
Q And the log is kept on a computer?
A Yes.
Q You would type it directly into the computer?

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A That's correct.
Q So is it fair to say that the log is kept independent of the F-1 log?
A That's correct.
Q But based sometimes on the information provided by the F-1 officer?
A It is more of a courtesy than requirement that the officer call us of anyone that is attempting to go upstairs. At that point, all he knows is that they are trying to go from downstairs to upstairs. He doesn't know which floor specifically.
Q So they reach your position?
A That's correct.
Q And then you would escort them if needed?
A Depending on who it is --
Q Okay.
A -- and the circumstances. And sometimes they would come into the usher's office and say I'm here for what purpose and/or to see the President or whatever. Depending on what our direction was, we might take them up immediately, we might place a phone call to check to see if the member of the First

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Family was expecting them, if it was somebody who routinely went up and down, you know, of course, then we would just go on.
Q And this information would be entered into your log?
A That's correct.
Q Let me show you now a document labeled S020017 and it is, and let me ask you to take a look at that.
A Okay.
Q And can you tell me what it looks like, is that a copy -- does that look like a copy of your White House usher's log?
A Uh-huh, it is.
Q And it is a printout of that log from the computer?
A Yes. It looks like somebody has handwritten in some things that were probably there.
Q That particular copy has been redacted by the White House in order to delete some of the names of particular persons and inserted with more generic descriptions and that has been the representation

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that the White House has given to us. Hence the whiteout and the insertion of the handwriting.
A Okay.
Q That is for August 2nd, 1995?
A It says "August the 2nd" and I'm assuming that it is 1995.
Q Okay. Yes. Again, let me represent to you that is indeed from 1995; at least, that has been represented to us by the White House. Can you identify -- can you verify that Ms. Feinman was one of the house guests that night?
A Yes, she is listed as a house guest.
Q And the format of this is in chronological order, the entries and exits to the second and third floor of the White House with the house guest listed at the bottom?
A That's correct.
Q Now, you mentioned that besides Ms. Feinman and Ms. Selatin, there was a third person. Could you make a visual inspection of that and see if she is on there?
A No, she is not.

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Q Okay.
A I could go back through the log certainly and pick out the names and when I saw them I would recognize it.
Q Would it be Debbie F-a-r-r-a-r?
A Farrar?
Q Farrar.
A It could be. I don't think so. That is not the one that I'm thinking of.
Q Okay. Great. Let me show you another day that shows Ms. --
A To maybe clarify a little bit.
Q Okay.
A By not being in the shift rotation or being the usher on duty, normally as I used to be, certainly, I didn't come in contact with some of these people on a regular basis.
Q Okay.
A So to be honest with you, I don't remember their names as well as I should.
Q Do you know, by the way, if Ms. Dickey was helping Mrs. Clinton with the book?

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A Not specifically, no.
Q Not specifically. Okay. Okay. So let's, just again, I want to be extremely thorough so I want to ask your patience in this. You testified that you do not recall any specific request in order to move any books or materials with respect to -- with respect to the construction work related to the closet in 323.
A That's correct.
Q Likewise with respect to the patching of the ceiling in 319-A?
A I don't recall anything specific.
Q You surmised that you may have moved the table but in order to gain access?
A Just to have a working area.
Q A working area.
A It is quite likely that the drop cloths would have been put on the floor or on top of things.
Q But you don't remember specifically if that was done or if the drop cloths were put there?
A I'm sure the drop cloths were put in there. That is a requirement. And I recall

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certainly several times being in that room where things were drop cloth protected. Floor, table, there might have even been one over the front of the video.
Q I'm interested now in the period prior to the First Lady leaving on vacation.
A Okay.
Q The same recollection?
A I think so, yes, sir.
Q And this would be consistent with the work of -- the plaster work on the ceiling?
A Among other things in the ceiling, yes.
Q Okay. Great.
A The problems that we had with the ceiling were not confined to 319-A.
Q Oh, okay.
A It is a problem that we had throughout the third floor because of all the activity in the attic.
Q Because of the walking along the attic?
A That's correct. We had a lot of problems with the central corridor because of that.
Q But we know -- but you know that there was

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some work done in 319-A in light of -- well, in light of the document that I showed you earlier with respect to Callas patching in the ceiling in 319-A?
A Yes.
Q And in light of Ms. Marshall's report to you?
A Yes, sir.
Q But you do not remember any specific recollection as to anybody requesting that you move materials or books out of the way in order to get to a particular job site?
A In 319-A?
Q In 319-A.
A That's correct.
Q And likewise in 323?
A That's correct.
Q And in 321?
A Correct.
Q Except for the TV and VCR unit which is done on a daily basis basically?
A Well, periodically.
Q Whenever access is needed?

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A Into the corner, that's correct.
Q That's what I meant by "daily." I didn't mean --
A And exercise equipment perhaps in that room as well. Sometimes we needed to shift some of the exercise equipment to allow maybe a piece of ductwork to maneuver into that opening.
Q Okay. And you stated that the escort officer may, be it from the Secret Service or from your staff, one of the job is to monitor to see that nothing is left at the work area?
A That's the Secret Service's job and not our staff's. We don't -- we stay away from security.
Q Okay. Great. But your staff definitely plays an escort role?
A That's correct.
Q And part of the escort role is to make sure that the workers confine themselves within the work space and not touch or disturb other materials?
A That's correct.
Q And when that happens, they would advise the construction worker not to do so?

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A That's correct.
Q And what happens if it -- what are the -- what other procedures can you take? What if a worker deliberately infringes your instruction not to -- not to disturb the -- not to disturb the materials and furniture?
A He would be removed from the job site.
Q He would be removed from the job site?
A Yes, sir.
Q And that's an explicit understanding with the administration of the contract?
A Yes.
Q Okay.
A If it was an accident, if you will, certainly the first step, and this has happened, I don't remember any specifics in this project, but the person would be reminded of their responsibility in that regard.
Q Okay. Even if it is an accident?
A Even if it was an accident, because we are asking them to be careful about this sort of thing.
Q If it was deliberate, then you would remove

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the person from the project?
A That's correct.
Q And talk to the contractor and make sure that he or she does not return?
A That's correct.
Q And would this type of action be taken by you?
A Or the National Park Service.
Q Or the National Park Service.
A If that sort of thing occurred, they would certainly advise me that it had.
Q Did anything like that occur, to the best of your knowledge, in July and August of 1995?
A No, sir.
Q How about in 1995?
A Period?
Q More generally.
A No, sir.
Q Okay. There were accidents but none of this removal, deliberate transgression of your instructions?
A Correct.

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Q Okay. And none was reported to you by the National Park Service?
A That's correct.
Q Or a member of your staff?
A Correct.
Q Let me ask you, if to look at what I would now hand you, which is a pile of paper of approximately 1 inch thick, measuring 11-by-17 inches, cover page of which is number DKSN 028928 and ask you to just take a cursory look at that.
A Yes.
Q Now, having this material in front of you, what happens if something like this was lying within my work space and I was a construction worker, would I be able to pick it up and throw it aside or is this something that I would request my escort to move?
A If something like this were lying, they would ask that it be moved.
Q Okay.
A But again, if we had done our homework, there would not be something like this, of course.
Q Exactly, but in the event hypothetically

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that something like this was in the workplace?
A Generally, the contractor is not given enough time when he goes into a space where he would be able to study something.
Q Okay.
A They are coming in and they are carrying tools and things. So if something was lying there, they might see something is lying there, but they wouldn't know what it was or anything.
Q So what does he do when he sees something lying there?
A If it was in his way, he would state that, you know, hey, we need to have those things moved.
Q He wouldn't take this sheet of 11-by-17 paper and just put it aside?
A No, sir.
Q He wouldn't touch it?
A Yes.
Q And that was consistent with your instructions?
A That's correct.
Q That is your procedure and indeed the

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practice for the construction workers?
A Right.
Q Now, let me ask you, have you ever seen a pile of documents measuring 11-by-17 that looks something like that in the White House in July and August of 1995?
A Not that I know of, but I've seen a lot of pile of papers and things.
Q This size?
A I can't recall ever seeing anything especially of this size. Have I seen piles of things? Sure. But not -- probably not -- if I've seen something bundled like this in this shape and size, would I honestly remember? Probably not.
Q Okay. So you have no specific recollection --
A No, sir, I do not.
Q -- of anything like this?
Do you recall if anybody asked or somebody told you that somebody asked; that is, a member of your staff said somebody asked me to remove something and that resembled something like this?

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A No, I had no knowledge of that.
Q Okay. In July or August of 1995 in -- I mean, to complete my question, in July and August of 1995?
A Correct.
Q And since then?
A No, I don't know of anybody being asked to remove anything like this.
Q Have you ever seen a pile of paper like this? Again, 1 inch of 11-by-17 apparently photocopies of some computer printouts in the book room?
A Have I ever seen something like this in the book room?
Q Yes, sir.
A No.
Q In room 323?
A No, sir.
Q In the exercise room?
A No.
Q In room 319?
A No, sir.

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Q All right. I think you answered previously to my more general question within the White House. I just wanted to focus your attention more directly.
A Okay.
Q And as far as you are aware, none of the construction workers asked for something like this to be removed?
A Correct.
Q And I take it, then, just to get the flip side of the story out, none of the construction workers would have placed something like this in the White House?
A I couldn't answer that. I wouldn't think so. I certainly would have no reason to believe that they would.
Q If a construction worker had placed something like this in the White House, would that be cause for concern for the Secret Service escort?
A Absolutely.
Q Because they are not supposed to place anything --
A That's correct.

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Q -- in the White House?
A That's correct.
Q Let alone a sheet of 11-by-17 paper?
A I think that would be a very unusual thing for a construction worker to be carrying.
Q Well, then in that light, have you ever seen a construction worker in the White House carrying something like this?
A No, sir.
Q That is again encompassed by your earlier, more general answer that construction -- that you have never seen something like this in the White House?
A Correct.
Q Have you ever seen a member of your staff carrying something like this?
A No, sir.
Q I take it your staff is under the same duty and procedure as your construction contractors, so would they -- would they leave -- would they carry something in and leave it somewhere in the White House --

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A Only if asked to do so.
Q -- without instructions?
A What?
Q Without -- absent any instruction to do so, would they would they carry something like this in and leave it in the White House?
A No.
Q That would certainly be against the procedure and practice of your staff?
A That's correct.
Q Would there be cause for termination if they did so?
A If they left something they shouldn't have in the family's living quarters?
Q Yes, deliberately.
A Yes, I think certainly. That is very vague.
Q Yes, very hypothetical.
A Never had that instance with our staff, so --
Q Right, right, right. But certainly the understanding is that you don't take anything, you

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don't leave anything --
A Absolutely.
Q -- in the family's living quarters?
A That would be a very serious situation if that were to occur.
Q And the same thing, of course, with the construction workers, they would be asked -- you would ask that they be removed from the job site?
A Absolutely.
Q And to the best of your knowledge and recollection, nothing like this ever happened?
A That's correct.
Q With respect to this record or anything else within the last year?
A That's correct.
MR. DINH: Okay. I have nothing further.
MR. IVEY: Let me pick up where he left off. What is the exhibit number on those documents there?
MR. DINH: DKSN 28928 which is the first page that I read earlier. The last page, and I presume this is continuous, the last page is DKSN

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029043.
MR. IVEY: And I take it those are the Rose law firm billing records?
MR. DINH: Yes, they are.
EXAMINATION
BY MR. IVEY:
Q And you've never seen those law firm billing records before today?
A That's correct. I heard about them certainly.
MR. DINH: Well, feast your eyes.
BY MR. IVEY:
Q Well, I imagine that you've heard quite a bit about them.
A Yes.
Q Let me ask you this, with respect to the room that we were discussing, 319-A --
A Yes, sir.
Q -- there is a line on this diagram that sort of bisects what looks like to be the entire area of 319-A?
A That's correct.

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Q Would my understanding be correct that that is not a wall, that is just a line that is part of the diagram?
A It is a center line. It is a center line that runs east and west and center line that runs north and south of the drawing.
Q So this is the center line for the entire floor of the White House?
A That's correct.
Q So this area where we have got 319-A on the diagram is only one room?
A That's correct.
Q Okay.
A And I believe at one time it was two. That's why there are two doors here.
Q Uh-huh.
A And this was prior to my arriving at the White House, but my guess would be at one time there was a wall here and that's why there are two doors.
Q Okay. And this rectangle that you have drawn here is the table?
A Uh-huh.

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Q Is in that room?
A Yes.
Q And could you write "table" on there?
A Again, there have been different configurations of tables in there. At times there have been a single table and at times there have been a couple of smaller tables and there is one might be even perpendicular to the other depending on the activities that the room was being used for.
Q Now when Mr. Dinh was questioning you, you drew a circle just above the table. By the way, is this north heading in this direction?
A That is south.
Q South. Heading towards the sun room. So south of the table you drew a little circle. What did you mean to signify by that?
A At least on several occasions when I looked in or walked into that room, I believe that was the location of a computer in the room and I believe it was on a cart and it may have been on a folding table. I think at another time it may have been closer to the wall. Again, that room was pretty

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dynamic at times in terms of the tables and things going in and out and all of that.
Q So things moved in quite a bit in there?
A From time to time from usage. If they had a lot of things they couldn't put on one table, they would put in another table in there.
Q Now, you also said earlier that the rectangle table on 319-A of the diagram was sometimes covered with a lot of things?
A Correct.
Q And is it correct that part of the usher's privacy concern extends to not reading documents that you might come across?
A Yes, sir; that's correct.
Q So during those period, when you saw a lot of things on a table in 319-A, would it be fair to say that you didn't particularly note or study what items may have been on the table?
A That's correct.
Q So you could sort of give us a generic sense of books, magazines, but if we wanted to get specific about what might have been on the documents

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or items that were on the table, you wouldn't be able to identify them?

A That's correct.

Q Now, I also recognize that this has been a few months ago.

A Sure has.

Q So recollection might be difficult, anyway, but even if we had spoken to you the day after one of these days in late July or early August, you still wouldn't have known what was on the table because you don't study what is on the table?

A That's correct, unless there had been something that would have happened. If somebody had bumped a table and knocked something off and I happened to picked it up and put it back or if I had been asked to carry something up there that was unusual, meaning if it was something abnormally heavy, an object or a picture that was abnormally large that I had to stand next to the table, I might have remembered that the next day, certainly. But after a few days it is routine type of thing that we would do periodically.

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Q So would it be fair to say then that the fact that you don't recognize those Rose law firm billing records isn't particularly connected to whether they were on the table or not or when they were on that table or not? You wouldn't have been looking to see what the documents were anyway?

A That's correct, I would not.

Q And would that also be true for anybody else working in the usher's office?

A I think so. Certainly that is the way that we've been taught. If we see something generally you glance at it certainly, but you don't read it. And the only reason that I say that we might glance at it would be if this is -- one thing that I do certainly if there is, by chance, something that might be a classified document that has been left out, particularly if it is an area where a contractor is going to come into sometimes, I would go in prior to that, or if I would walk into an area that wasn't related or something, if there is some paper laying out like by itself I probably would glance, but that would be stamped or something.

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Q Stamped with the word "classified"?
A Yeah, or "secret" or whatever. And those instances have only occurred a couple of times in 10 years since I've been there. It is not a routine type of thing.
Q Now, you also mentioned that, for example, if you saw a photograph or something that visually struck you as perhaps private, you might move that or cover that?
A Might turn it over --
Q Okay.
A -- prior to the contractor coming in.
Q And again as to protect the privacy of the First Family?
A That's correct.
Q Now, take a look at the document that Mr. Dinh provided for you that you now know are the Rose law firm billing records.
A Yes.
Q Is there anything about those that would jump out to you as private?
A No, not from a distance. And if I was

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walking by a table and saw that, I probably would just keep on walking by it.
Q And they don't have a secret or classified stamp that would draw your attention?
A No, sir. If that was sitting on a table by itself, that would -- certainly I would look at it from a distance if it particularly was an area where I normally wouldn't see something like that. But if it was in area where I would expected to see things, I wouldn't -- that would not create any unusual attention.
Q So let's say hypothetically that the table in 319-A was entirely clear except for those billing records. Would that have caught your attention?
A I think I would have noticed there was something on the table, sure.
Q And would you have noticed what they were?
A Probably not, unless I needed to have that area for somebody to work. If I was just, for instance, walking through to get to the exercise room, I would not normally walk over and look at it.
Q And if the table had been covered with a

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number of documents and books and magazine clips and the like --
A Right.
Q -- there would have been no reason for you to notice any of the particulars?
A That's correct.
Q Okay. Now, you testified earlier that you saw a lot of papers piled up on this table and you didn't necessarily recall specifics about the papers that were there. Now, I just want to be clear because sometimes if you say I don't remember seeing something, you know, an inference can be drawn one way or another.
Would it be fair to say that you don't recall whether or not those documents were on that table one way or another at any point?
A I think it would be fair to say that I have never seen these documents before today, knowing what they were.
Q Okay.
A Could there have been a pile of documents that looked like this that I have seen before? I

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guess. Again, I very rarely would look at that specific thing. It would be more that I know that there was something on the table. And if it was a table full of lots of things, that's the way that it would register with me as a table full of a lot of things and I would keep on going.
Q Now, Mr. Dinh also asked you, I believe, if documents like that had been moved or if there had been a request to move documents like that by one of the construction workers?
A Right.
Q And again I think that your answer was something like "not that I recall," or something like that?
A Not that I know. Certainly I'm not aware of any request to move documents like that.
Q Do you recall what types of requests were made by the construction -- by the contractors during that period? And by the period, I mean late July and early August of 1995.
A Okay. The request, 99 percent of the time, would go from the contractor to the National Park

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Service since they are the actual project supervisors to us. Most of the requests would be can you move a piece of furniture, could you move a table. We need to get into a certain area, say, later today. Could we make sure that it is clean; "clean" meaning that anything fragile is moved out of the way, or anything that would reduce their ability to get their job done is out of the way.

Q Do you recall any requests in late July or early August of 1995 with respect to the table in 319-A?

A No, I don't recall a specific request for that.

Q During the time that the work was being done in that area through 1995 in that southwestern corner, I guess, of the White House?

A Yes, sir. The exercise area?

Q Yes. How frequently did you come up to that part of the residence?

A Prior to the family departing, once every couple of days. It really would depend on the type of work being done and where. Prior to the family

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leaving, most of the work occurred in the attic above it and certainly in many of the other areas of the building.

Since we are dealing with just this area here, most of the work prior to their leaving was in the attic right above that area or through the access hatch in the promenade.

Q Now, you would come up every few days. Is there an intermediate level of either management or supervision between you and the contractors that are actually doing the work in that area?

A The National Park Service, but there is no one between the National Park Service and myself.

Q So it would go you, the National Park Service, and then the contractor?

A That's correct. One in three days is strictly an estimation.

Q Sure.

A During part of that time, I believe I mentioned that I was pushing to try to accomplish as much work as we possibly could because I was aware of what we had to accomplish in August was extremely

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ambitious. And it involved having to have heating and cooling for the rest of the building when the family came back and it was pretty critical in my mind.

Because of that we had to intrude, certainly from a noise standpoint, and to a certain extent, visually more so into the First Family's life than we normally would do so. And because of that, I tried to spend and concentrate my time on minimizing those impacts. And this area was not a great consequence in terms of the overall scheme of what we had to do workwise. The attic was probably more critical at that time, so consequently, I didn't spend a lot of time going in there.

On the other hand, certainly knowing that Mrs. Clinton used that area, noise was a major concern. We were trying to work with her only being separated from some of the workers by a plastic ceiling. Yet, the work was so critical and timely that we had to do that. Normally we wouldn't do that. Normally we would wait until the First Lady was not there.

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So to answer your question, certainly I was up there once every couple or two or three days. In general, I would also go up in response to a specific -- someone hearing noise or needing to do work in the area. Do you think that we could do it and not disturb somebody? I might go up and I might listen, say, out in the hallway and have somebody drill a hole or something like that.

Q Now, with respect to the request to move furniture or, you know, papers, would that be something that would rise up to your level?

A Generally it would be the Park Service would call the usher's office, and whoever the duty officer was, they would take care of it. If I happened to be at the time out, where the construction was going on, out in my office or out in another part of the building, they would ask me. Quite often I would pick up the phone and call direct to our operations division.

Q Is there any type of log that would record those types of calls?

A No, sir. No, there were too many

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occurrences.
Q So during the course of the day, you know, on a large scale project or work that might be done, you might receive numerous requests?
A Oh, absolutely.
Q And it would be burdensome to write them all down and, I suppose from your perspective, not particularly useful to write them all down?
A That's correct.
Q Now, during that period, how many contractors would have been working in that southwest area of the White House?
A During this two-month period?
Q Yes, late July and early August.
A So a month period?
Q Yes.
A Well, we could take a look at the work log. My guess would be during that month there would be several people from each sub that would have needed to get through that area certainly to the promenade, so a dozen, 15. It wouldn't necessarily be the same person or persons each day. The

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subcontractors have a team of people and some days they might have more personnel on-site than other days because we were again, trying to accomplish things in different areas at same time.
So it is quite conceivable that, for instance, if two people came up on Wednesday, it might not be the same two people that came up on Thursday, although generally you want to keep a continuity of the work. I think a dozen to 15 people would be a reasonable guess.
Q Now, what about residence -- I guess it was residence staff. I'm not too familiar with the lexicon of people over there at the White House.
A Okay.
Q But what types of people would have access to that area? We said about 12 to 15 contractors on a given day.
A That's kind of a guess on my part.
Q I recognize it is an estimate and not --
A It is highly dependent on the type of work that they were doing.
Q Sure.

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A But in general terms, I think that is pretty accurate. And again we are talking about this corner?

Q Yes, the southwest corner.

A In terms of our staff, housekeeping certainly would have a routine basis to be in there every day or virtually every day. Some of our maintenance crews, our engineers, electricians. Members of the usher's office if we had to go look at something and bring something up.

And when I say "go look at something," when a member of our staff calls and says I want you to come look at this, whether it is a tablecloth that is torn or a crack in the ceiling, or whatever it might be.

Butlers also have required access to 319 which is where some of the tablecloths and all are stored. Our florists perhaps as well might go to take a look at the color of the tablecloth and try to relate it to some floral arrangement or some flowers that we might need to order.

Q Now, I'm just on staff too. I don't want

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to talk about guests yet.

A Okay.

Q So just routinely all of these groups of people might have some reason to be up in that area?

A That's correct.

Q And that would be in part, if I understand you correctly, because of the work that was being done in that section of the White House and also because there are linen items that are --

A Stored.

Q -- used by the butlers and might have been used by the florists?

A They might come up to take a look at the color of a different -- different tablecloths and linens. They are primarily tablecloths used for functions. And if they were trying to pick up a color scheme or they needed to order flowers and they wanted to try to match it to the linen, quite often they might set up a table in the room that they were going to do it and might go up and get the tablecloth and have the butler put it on the table and try an arrangement to see how the colors worked together,

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and that sort of thing.
Q Now, with the exception of the contractors, the butlers, florists, housekeeping, maintenance, were these all people that would work under you?
A Yes. Well, on our staff. The shops, the maintenance shops I directly supervise. The florists, the butlers, the housekeepers come under different assistant ushers.
Q Okay. Well, how big are those offices? I'm trying to get a sense of what numbers of people we are talking about.
A Oh, gee. Probably could encompass 30 to 40 people there.
Q Okay.
A They don't all work at the same time, of course. Some of them work shift work. Our electricians and engineers, butlers to a certain extent work the shift work. We have a morning and evening person.
Q Now, with respect to White House staff, the President and First Lady's staff, you mentioned Capricia Marshall?

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A Yes, sir.
Q And Ms. Huber?
A Uh-huh.
Q Would there be others up there as well?
A There certainly could be. If Mrs. Clinton or the President -- generally it would be Mrs. Clinton in that area -- was to have a meeting or needed to have somebody come up to talk to them, sure.
Q Okay. Now, I recognize that you don't supervise those staffs --
A Correct.
Q -- but you just bump into them periodically?
A Well, generally we know when they go upstairs because we may put them on the log. And you know, kind of coming back to the privacy issue, one thing that we try to do is keep even staff members from intruding into the family's life until they are ready for them. Some staff members would come over and go right up to the living room because they have a meeting with them. They might be five minutes

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early and that might not be what the family wants. Generally we are that go-between.

Most staff stop at our office and say I have a meeting with the President or I have a meeting with Mrs. Clinton. And depending on the direction that we receive, we might immediately take them up or a member of the usher's office might take them up. Or if we didn't know about it, which has happened, and we were concerned that maybe the family wasn't ready, President and Mrs. wasn't ready, we give them a call and ask them and say so-and-so is here to see you, would you like us to take them up.

Q And this area through 319-A was sort of a passageway or transition way in the sense that people often went through there to get to other rooms in that southwest section of the White House?

A To get to the exercise area and to get to room 319, yes, sir. The only way to get to 319 is through 319-A.

Q And 319 was the linen and storage area?

A Yes, sir. And only way to get to the exercise area is also through 319-A.

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Q Now, my understanding is that Ms. Marshall worked in 319-A on some occasions and maybe not regularly?

A On some occasions, sure, she might help with, again, all of the things that I call kind of transition things, you know, books and photographs and knickknacks and all those things she might do that on behalf of the First Lady, videotapes, gifts to Chelsea. There are a lots of things.

That kind of was their utility room, if you will, for a lot of things had to have a starting point and that was an out-of-the-way place where things were relatively protected. I mean, they wouldn't be damaged because there wasn't a lot of chances of somebody bumping into it.

Q Now, I think when she testified previously, I'll represent to you that she said that on some occasions when she was working in there, people who were doing some of the contracting work, or I guess were butlers or, you know, doing that type of work would stop and chat with her?

A Sure.

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Q You are aware of that?
A Yes, sir. Well, knowing our staff and knowing her, I'm sure she said hi to people and that sort of thing. Sure.
Q So that doesn't strike you as unusual?
A Oh, no, not at all.
Q And this room then would not -- it is not sort of a private area in the sense that some other parts of the residence might be?
A It is not as private, that's correct.
Q Now, with respect to the ceiling in 319-A, you testified a little bit earlier about the plaster that fell or paint, I guess, a little bit of plaster?
A There was a little bit of plaster. It was enough to scare her is what really happened.
Q It fell from the ceiling?
A That's correct.
Q And you went up and took a look at it?
A Yes, sir.
Q And your recollection is that it was sometime in early August or late July?
A I don't think it was in August. My guess

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would be that it was in July.
Q July.
A And it could have been early July. Somewhere in that period. Again, other than Ms. Marshall's reaction, there were other areas that had been damaged far greater than that in the ceiling of the third floor. And when it was characterized to me that, you know, that the ceiling is falling, you know, obviously I was very concerned. And when I got up and saw it, I thought this is pretty minor.
Q Yeah, compared to what you had expected when you first heard?
A Sure. Exactly.
Q But you weren't happy that part of the ceiling was falling, it raised some concern for you?
A Yes, absolutely because it goes back to what I mentioned, that I was pushing hard to get a lot of work done. That was one reason that I was asked to work on this project was that it was falling behind, and it was asking kind of an extraordinary tolerance by the First Family. And quite often it was done through Ms. Marshall, that particularly

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Mrs. Clinton endure noise while she was trying to work in her office there. So anything that scared her, I knew Mrs. Clinton would know about so I was concerned.

Q All right. And you were also concerned enough to have the people come up and check the ceiling and make sure that there was no structural problem?

A Up in the attic, that's correct. By looking at it, I was certain that there wasn't, but I did that more as a courtesy to make sure that they knew that they didn't need to be worried, that the ceiling was not in danger of collapse.

Q Had you indicated on here where the piece of --

A I think it was right in this area, in this corner if I recall correctly. I think there is a bookcase around here.

Q Could you circle that with the red pen?

MR. DINH: That's where the X was earlier.

THE WITNESS: Somewhere in here.

BY MR. IVEY:

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Q Now, you mentioned there were other problems with the ceiling on the third floor?

A That's correct.

Q Now, I want to focus you to the southwest corner here. Could you recall other areas where there may have been problems?

A In the southwest corner?

Q Yes.

A Nothing significant, no. The areas that I was thinking of was in other portions of the third floor.

Q I had a question. This document S 020135 and S 20136, and on this page the safety comments -- this page being 20136 -- it says "damage to 318-A ceiling was discovered today. It was probably due to attic work"?

A Uh-huh. 318, 318-A?

Q Yeah, that's what got my attention. I couldn't find 318-A.

A My guess would be it would be the closet.

Q The closet in room 318-A?

A That would be my guess that would be 318.

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I don't know that for a fact but I don't see any other designation that could be 318. There is 318, 319.

Q So your guess would be that it would be the closet between 318 and 319-A?

A Yes. That's where that duct work had to be cut in and there was work above that ceiling to tie it all in as well, so there was -- before that was required, there would have been duct work run to get to that point.

Q Uh-huh.

A So, you know, it is logical that that might have happened.

Q And with respect to fixing the ceiling above 319-A, or 318-A for that matter --

A Uh-huh.

Q -- the normal process would be to plaster it over?

A That's correct.

Q And I guess you sand it down and let it dry, or let it dry and then sand it down?

A Uh-huh.

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Q And how long would that process take?

A Well, true plaster takes 28 days to cure. We did not do that. We used a quick-set plaster which sets up in a matter of a couple of days. We certainly like to allow about a week before we paint it, otherwise, at some point in the future, the paint is going to peel back off. Depending on the area, you know, we might plaster with the quick-set plaster and have to paint it a couple of days later simply because it was a very sensitive area that we had to restore.

I don't remember specifically how quickly the patches were done when we painted. If it was in 318-A, which we are both assuming was that closet, that was a very low priority area in my mind so it could have been months before we painted it.

Q And it is a low priority because it is not part of the living area?

A That's correct. It is the chef's closet so he can endure it.

Q S 20167 which is another one of the daily construction logs, and on here it says "cleaned up

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319-A"?
A Okay.
Q There is some comments about 319-A that I wanted to --
A August 19th. Okay. Let's see. The electrical sub was working in a panel, buzzer panel, in 319-A that required an enormous amount of work. I remember this one pretty well because I walked in at one point and it looked like it was just like spaghetti coming out of the wall.
There is a buzzer system in the White House that allows an occupant of the room to buzz our office or the butler's in a couple of different locations. And because of some of the work -- I believe it was in the attic -- we had to relocate some of the conduits that went to that buzzer panel. And when you do that, you had to pull all of the conductors out and put them back in. And if I remember correctly, the wires in there were very old, about 40 years old probably, and we ended up having to put in new wire. And it was just, you know, there was spaghetti all over the floor kind of around that

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panel so I think that is what that is referring to.
Q And this was done August 18th, 1995?
A That's what it indicates, yes, sir.
Q Now, where was this -- could you mark on the diagram where this work was done?
A I think that panel, if I recall correctly, is somewhere on this wall here. It makes sense that it would be centered. I would think that it would be over here. It is either over here or over there. Again I'm sure it is not the center line of the room, if that makes sense. Somewhere along this west wall.
Q So it would be along the wall between 319-A -- either 318-A and 319-A?
A That's correct.
Q And by "cleaned up," I assume that means whatever mess might have been made during the electrical work?
A Yes, it says "cleaned up" under H&P, that is the electrical sub, so they must have made quite a mess and then they cleaned it up. They normally would not clean up certainly any plaster debris or anything like that. That would be one of the other

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subcontractors.
Q So with respect to what happened with the plaster that fell from the ceiling and the repair work that was done, have you come across any entries where it is mentioned in the logs that we've shown you so far?
A As far as the plaster falling?
Q Right.
A No, I've never see any indication of the plaster falling.
Q And again that would have been, given what was being done at that time, comparatively minor?
A It would have been prior to that day.
Q Yes, sir.
A Yeah, I would see it as somewhat minor, although again, the Park Service has been sensitized to things. They certainly wouldn't put in there plaster that fell on Ms. Marshall's head, but I would be surprised that there would not be something in there about plaster falling or damage to the ceiling or certainly patching, I believe was indicated, if in fact that was the same patching and I think that it

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probably was.
I guess having seen it, maybe they thought it was as minor as I thought it was and maybe didn't indicate it. Again, we were talking, it was more paint than plaster. It was chips of paint. The White House has a leaking roof, that is the only way to say it. And we have a problem with the peeling of paint on the third floor ceiling in locations.
Q And now, do you recall if the -- if any of the items if 319-A were covered at all after the little piece fell from the ceiling?
A I think that we did put drop cloths in there. I think that we might have even put some sheets over things to protect it from any more debris coming down. We did that on a number of occasions, and certainly in various rooms, when we would be working in the attic above an area and it wasn't practical to move things out of the way or really there shouldn't have been anything coming down, but it was more of a precaution. Certainly other areas on the third floor in the central corridor where we had tremendous problems with pieces of paint falling

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down and we put drop cloths down or sheets over couches or tables and that sort of thing.
Q Do you know if there was any effort to clean up what had fallen?
A Oh, I'm sure there was.
Q Okay.
A I'm sure it wouldn't have been left there.
Q Who would have taken care of that?
A Probably housekeeping. That would be the normal routine. I don't remember, you know, specifically who cleaned that piece up. My guess would be that Ms. Marshall probably kept a piece to show us. And again, you know, I'm trying to remember this because obviously there is some significance here.
I don't think I was the first person in our office that she encountered. I'm sure that I found out about it pretty quickly thereafter, but I don't think I was the first person she said this is what happened.
Q And your understanding is that she heard movement up in the attic in 319?

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A There was a lot of movement in the attic during the days leading up to that, but that in itself was not unusual, but something falling on her was.
Q But she contacted you after this?
A Yes, at some point, yes.
Q Now, let me show you S 20123 which is another entry in the daily construction log. This one is dated July 26th, 1995 and here under -- I guess that name is Callas?
A Callas. They do some of the patching and some of the general work.
Q It says "patch 319-A ceiling and 319 wall."
A Right.
Q That would be -- do you -- would it be your assumption that this was related to the incident Ms. Marshall contacted you about?
A I think it is quite likely. The timing would be about correct. I don't remember that we patched it very promptly after it happened. It could have been that it happened two days before or it

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could have been it was two weeks before. It depends on when we could have gotten in there to patch it but my guess would be that was when it was.

I mentioned earlier that we had done other work on the ceiling in that room but I'm sure that was considerably earlier than that. There were two ceiling diffusers that had to be enlarged so we had to cut the ceiling back to accommodate those.

Q What is a ceiling diffuser?

A These are round that diffuse air from the conditioned air that you are supplying to the room. Most people would call them an air-conditioning vent. It is a series of cones that spread the air out and allows it to mix with the air in the room.

Q And those were --

A I believe there were two in this room.

Q Could you make -- why don't we --

A Sure.

Q Why don't you do red squares to show where those are?

A You don't want circles because they are round?

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Q Squares. We have a circle there already.

A Generally -- and I want to say that there were two at the time. Usually they are in the center of the room so there would probably be one here.

Q So they were, to your recollection, probably be over the table in the middle of 319 or sort of nearby?

A If the table was off-center like that and most of the time that I saw it, it was, so you had relatively free access into this room, to 319. Yeah, it probably was over the top of the table like that.

Q And you put those in -- how high are the ceilings in this room that we are talking about, to work on the ceiling?

A Probably 9 feet.

Q So they would be using ladders obviously?

A That's correct. That's correct.

Q So would they have moved this table to do that work?

A If the table had been there when they were doing this work, and my guess would be -- you know, again, I don't remember when we did this exactly --

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if there had been a table that large, it would have been shifted over here. There may not have been a table in there at that particular time, knowing we were going to cut the ceiling.

That was something that we had planned quite a bit ahead of time, to do anything that disruptive. Whenever we would do something like this, obviously you knock out the existing air supply so I'm sure that was done when the family was not there. I'll probably need it again.

Q Hopefully that would be it for the diagram, unless there is other ceiling work that you recall in 319.

A No, near the ceiling but not in the ceiling.

Q Where? Would that be one of the side walls?

A Yes.

Q Okay.

A And that was one we mentioned before, it is called a return air grill, where a new duct was put in and penetration cut through the plaster of that

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wall.

Q All right. And with respect to that patching on the ceiling, the painting that would have -- would you normally paint over that type of patching work?

A Oh, yeah, we would at some point. Yes, we would absolutely touch it up. We would just paint that immediate area there. We wouldn't paint the whole ceiling.

Q Would you use drop cloths?

A Yes.

Q Now, in room 319-A you mentioned there was a computer there. Do you recall if there was a computer that Chelsea used in that room?

A No, sir. There was one in 323 that she used.

Q Do you recall what type of paper that it used?

A Paper?

Q Uh-huh.

A No. I know the brand of computer but I don't know what type of paper. You mean for the

printer?
Q Yes.
A No.
Q Do you recall if it was sort of 8-1/2 by 11 size, or if it might have been bigger?
A I don't know. I can't say that I ever noticed the paper that the printer used.
Q So you can't recall one way or another?
A Correct.
Q Do you recall papers, documents, books, whatever, being moved into or out of 319-A during the end of July or beginning of August, or any time in August of 1995?
A Again, I don't remember anything specific. I mean it was routine to move things in and out, you know. Our office might be called or asked, or we would call operations to do it but I don't recall anything specific.
Q And Carolyn Huber asked you about moving boxes on some occasions?
A That's correct.
Q But you can't remember specifically one way

or another if it came during this period or not?
A That's correct. I would be surprised if, you know, any request or more than one request didn't come during that long a period of time because it was pretty much a routine type of thing.
Q Okay. Are there any requests by her that stick out in your mind during this time period, any time where there may have been some sense of urgency in her voice, or concern?
A No. Generally when she would call, it would be, you know, I've got a box or two boxes, could one of you carry them over to my office. And sometimes she would say it is heavy, you need more than one person. A lot of times she didn't and they would find out that it was heavy. You know, I have, I think I said, a vague recollection of her during that time period asking to have some boxes carried to her offices. And it is not much help, but that is it. I certainly couldn't tell you that it didn't happen during that time.
Q Now, do you recall if anything was moved from 323 into 319-A during this period?

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A No, sir, I don't. I don't know of anything.
Q Okay. You mentioned about the closet in 3 -- is 323 the office where the closet --
A Yes.
Q -- was replaced with duct --
A Yes.
Q -- work?
And you mentioned that you thought probably Ms. Marshall had moved the items that were in the closet?
A She told me that she was going to. She was the person that I coordinated having that done upon the family's departure.
Q And I believe that you said on August 18th, when you got into the closet --
A That was the first time that I could open it, that it was wasn't locked.
Q -- that there was nothing inside?
A Well, that it wasn't locked.
Q But I mean when you did open it up and looked, there was nothing left in the closet?

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A That's correct.
Q Do you know if you went into 319-A that day?
A I'm sure that I did.
Q Do you know if -- or did you notice any change in --
A Let me jump back; 319-A or 319?
Q 319-A.
A Yes, I am sure that I went into 319-A.
Q Let me ask, did you notice any change in the stacks or any new documents in 319-A that day?
A No, not that I can recall. Again, you know, matter of routine, I don't know that I would have noticed.
Q It is understandable but I want to make sure.
A I understand. Okay.
Q You mentioned also that on occasions Ms. Marshall asked operations to put things into, I believe you were talking about 319-A?
A She -- yeah. If something would come in -- a lot of times things coming over to the residence

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stopped at our office, and quite often it would be things that Ms. Marshall would have knowledge of and would say, you know, could you have the guys from operations put that up in the book room. It could be a picture. It could be a photographs. It could be a box. It could be gifts. You know, the full gamut of things.

Q Do you recall any of those types of requests by Ms. Marshall during late July or August of 1995?

A I don't remember anything specific but I'm sure that it happened.

Q And where would she ask you to put them?

A Either it would be the book room or some things would go into the private living quarters.

Q And when she asked you to put something in the book room, was there any specific place in the book room, or anyplace in the book room?

A Usually it would be put it on the table or put it on the floor under the table. The book room, I think, was a -- kind of give you an understanding, it was an area to try to keep some clutter from

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getting into their private living quarters. It was, again, a utility room where you could leave things for the family's convenience. They could take a look at something and say, gee, that's a unique picture, I would really like that to be put in some other room; or it is nice but we really don't want it, and send it to the gift unit or something like that. Transition is the best description I guess.

Q So your expectation would be during occasions where you were asked to take something up to 319-A -- and by "you," I mean someone in the usher's office -- it probably would have ended up on or near the table in 319-A?

A I think that is fair to say, yes, sir.

Q Now, how frequently would Ms. Huber have been in the room during that area; do you recall?

A I think she came over every couple of days and, you know, as someone of her routine she usually gets up pretty early in the morning so she was always there, at times quite early. I don't think that she was there every day.

Q During the time that some of the work was

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being done in 319-A, did patching of the ceiling and that sort of thing, where maybe the cloth would have been put over the table in 319-A, do you recall if she was present during any of those times, or did she try not to show up when work was being done?

A Oh, no, I don't think that she ever avoided when work was going on because it was such a continuous thing. Several occasions I had talked with her about the work out of courtesy just primarily to let her know that work was coming, particularly if it was going to impact 323. Most of that occurred prior to the time we are talking about but I tried to maintain a dialogue with her so that she felt that she was informed and she wasn't surprised about some of the things that was going on.

Q Did you ever discuss -- well, let me back up. You mentioned the closet in 323 to Ms. Huber --

A Yes, I did.

Q -- first?

A That's correct.

Q Okay. And then she said that she didn't -- she didn't think that she had a problem with that in

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substance but that you should check with Ms. Marshall?

A Mrs. Clinton.

Q Mrs. Clinton.

A And the reason was, you know, when this room was remodeled, the intent, at least the way that I understood it, it was an office that would be used primarily by Mrs. Huber. And that changed over a period of time where she used her east wing office more so, and Mrs. Clinton began to use 323, you know. And I didn't know it at the time but I'm sure it was leading up to writing the book. And at the time that all this was occurring, Mrs. Clinton was using the office on a far greater percentage of time than Mrs. Huber was, so that was a logical thing to do. I didn't really know at the time who had custody of some of the areas.

I knew that Mrs. Clinton was using that area certainly. I assumed that Mrs. Huber still did things in there as well.

Q Then you spoke with Ms. Marshall?

A Yes, I went to her instead of going

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directly to Mrs. Clinton.
Q And did you ever get any sense that they didn't want you -- that they had some concerns about you doing anything to that closet?
A No. I think I was reluctant to ask them, simply because it was, you know, an area that Mrs. Clinton was using as her office and that was the only closet in there. And I didn't like the idea of running what could be noisy duct work down through an area, again, that she would use and that is a minor concern.
I mean, most duct work isn't behind a closed door but that was a thought in my mind. I didn't know how noisy it would be so I had concerns about even approaching them to ask for that area. So I didn't sense -- when I approached Capricia about it, she said, are you sure that you really need to use it. And I said, yes, we are still exploring the possibility of other ways, but again, we are reaching a critical point in the design process and that is one of the preferred options at this point. And I asked her, would you ask Mrs. Clinton if she would

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consider using it for that purpose.
Q Was there ever any inquiry about the other alternatives that you mentioned?
A No, I don't think so. I think that was more so on my behalf. I was hoping that we wouldn't have to sacrifice, you know, any space, that we could tie into things, existing duct work and all, up in the attic as opposed to coming down into the living quarters, even if it was just the third floor. The idea was to minimize the impact.
We had asked them the year before to put up with an incredible amount of demolition in the living quarters to do other things that had come before this time period. And the last thing that I wanted to do was intrude back into their space, let alone Mrs. Clinton's office area, if you will, but I didn't have a choice.
Q Okay. Now, the people who were working with Mrs. Clinton during this period on her book -- well, first of all, is this the period that we are talking about, late July and August of 1995?
A I think that she was trying to finish the

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book, before she finished it, so there was a pretty intense period that was making it more of a challenge to try to get some of this work leading up to their vacation done because, again, we were so concerned about the noise. I mean, it is noisy work, banging on duct work and drilling, and that is right above you if you are trying to concentrate.

Q Okay. And the people working with Mrs. Clinton on this project, would they have been there during the time some of the ceiling work was done in 319-A or the electrical work?

A I'm sure they were. I don't know if they were in the room when that specific event occurred, but during that time frame, yes, they were.

Q But there was some overlap?

A Yes, I'm sure they could tell you about noises above and all of that.

Q And did they go to other rooms when the work was being done or how did that work?

A Well, actually at one point -- and I don't know if this was during this period -- certainly at times I think they might move, you know, into the

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central corridor or might have gone up to the solarium just as a change of pace, to get out of the room. Most of the time I think they were in 319-A.

Q And you said Mrs. Clinton spent most of her time in 323?

A Yes, sir.

Q And on occasion she came to 319-A but not much?

A I had seen her in there before, talking to one of the ladies in there, talking about the book. I seen her more than one time, maybe on a couple of occasions, but most of the time when I would come upstairs, you know, if she was up there working on it, she would be in 323. Probably 95 percent of the time, if I were to guess about the percentage of the time.

Q And the people who were working on the book, were they working on the table in the middle of 319-A, or were they using something else?

A I think that we put some other folding tables in there.

Q So they had separate areas that they used?

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A Yes, I think there was a computer on a cart and I believe that there was one or two other small folding tables. The big folding table might have even been taken out. There have been different configurations in there depending on where it was.
Q So you are not sure if the table that is drawn on the diagram was there during the period when these women were working on it?
A I'm not positive. But the time period we are talking about, I think certainly during the incident with the plaster, I think certainly there was one table like that. There might have been another little table pushed over in the corner someplace, maybe.
Q Okay. Do you recall Mrs. Clinton working in that room, 319-A I mean?
A No, I think the only time I ever saw her she was standing and talking to somebody.
Q So it would be your sense that she would come in to maybe discuss something briefly and then went back to 323?
A Yes. I probably saw her a couple of

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times. And unless I had a reason to talk to her, I wouldn't intrude, and certainly I'm not going to stand there and look at her.
MR. IVEY: Let's go off the record for a second.
(Discussion off the record.)
MR. IVEY: Back on. Yes, just a few follow-up questions or wrap-up questions.
BY MR. IVEY:
Q How long was the covering over the furniture in 319-A, do you recall?
A No. I -- we would put coverings over furniture on an as-needed basis. And when the work was concluded, I would say that it would be removed, and I really don't remember specifically of things being covered during that time frame. I'm sure that things were. You know, in our normal protection mode, we would do that but it would be like a day. You wouldn't leave something covered for a number of days.
Q Well, let me rephrase it this way. In 319-A, do you know if items were covered for an

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extended period of time, or would it have been a shorter period of time?

A Normally I would say that it would be a relatively short time unless it occurred after the family left for vacation and then there would be no necessity to remove things.

Q So you are not sure?

A That's correct.

MR. IVEY: I have no further questions at this time.

MR. DINH: I have just a couple of questions and I thank you for bearing with us.

EXAMINATION (Continued)

BY MR. DINH:

Q Let's just start with the drop cloth that Mr. Ivey had asked you about. You said that you had no specific recollection of seeing cloth -- the room covered during this period although that would be your normal procedure, expected procedure?

A That's correct. I would say that I'm sure that it did happen, but I don't remember specifically when or what.

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Q We established that, on July 26th, Callas did some plaster work on the ceiling?

A That's correct.

Q It would be a pretty dumb plasterer to not to put down a drop cloth in order to catch the stray plaster?

A Right.

Q Because that may go on the books and memorabilia and they may be valuable, and in any event, you don't want to disturb them?

A That's correct.

Q So it would be safe to say that the drop cloth was there on July 26th as Callas was plastering the materials?

A That's correct.

Q Now, you said that in making that assumption, even though you had no personal observation on it, it would be used on an as-needed basis?

A Yes.

Q July 26th is before the First Lady left on vacation; is that correct?

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A That's correct.
Q So as-needed that is when they needed in order to plaster, while they're plastering, obviously it would be there?
A That's correct.
Q And when they were done, it would be removed?
A At the end of that task, it would be removed, that's correct.
Q And we established earlier that it would take about an hour or maybe two or if it was really large, three, but somewhere around no more than a couple of hours?
A For that patch?
Q For that particular patching job.
A That's correct.
Q Okay. So at most a drop cloth would not be there for more than three hours?
A For that specific job?
Q For that specific task.
A That's correct.
Q Now, before I go on, let me just ask you

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regarding the two diffusers that you talked about, the more major project?
A Yes, sir.
Q Now, you talked about earlier -- before that line of questioning by Mr. Ivey, you said that you would have -- you were sure that was done considerably earlier?
A Yes.
Q Now, can you tell me how much earlier?
A My guess would have been probably a year before.
Q So July 1994?
A That would be my guess.
Q And that, of course, is a much more major project, you have to cut up the ceiling?
A Correct.
Q And so you need ladders to get up there in order to cut up the ceiling and replace the diffuser?
A That's correct.
Q So you are certain that that work did not occur in the relevant period; that is, late July/early August?

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A That's correct.
Q Okay. I just wanted to be clear on that. You mentioned earlier that on August -- on August 18th, 1995, that is the day that work commenced on the work in the closet in 319 -- 323?
A That's correct.
Q And that's the day that you went in and checked the closet and it was empty. And that's when you gave the go ahead for Callas to start --
A The demolition.
Q -- the demolition of the floor and ceiling?
A That's correct.
Q And of course, that's when you discovered asbestos, and hence, the decontamination unit was started?
A That's correct.
Q And Mr. Ivey asked and said -- asked you whether you went into 319-A --
A Yes.
Q -- on that day and you said that you were sure that you did. Why were you so sure?
A Because I was all over that area.

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Q Because that was one of the first major -- the first days of construction after the First Lady and the First Family left?
A Right. I'm sure that in the first couple of days after the family left, I was in virtually every room, certainly every room that there was any activity going on on the second and third floor.
Q And Mr. Ivey had said earlier that H&P had noted on -- one of the documents reflected that H&P was splicing wire and cutting up buzzers and stuff like that on 8/18?
A Yes.
Q And so that was the day that you saw the spaghetti coming out of the wall?
A That's correct.
Q But that was after the First Lady and the First Family left for vacation?
A That's correct.
Q Because they left on 8/15?
A The 15th, that's correct, sir.
Q Okay. Now, you mentioned some of the people who worked with Mrs. Clinton on the book at

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times moved their location; that is, for a change in atmosphere they may have moved into the sun room, which I presume is a fairly hospitable room being covered by glass?
A There is glass around it, yeah.
Q Okay.
A I think they did.
Q Okay.
A I can remember seeing them sitting in some chairs --
Q Okay.
A -- down here at one time.
Q Okay. "Down here" being down in the --
A In the corridor.
Q The western end of the corridor?
A The eastern end.
Q The eastern end of the corridor of the main hallway?
A I can't really give you any real good time frame when I saw them.
Q Okay. That's fine. They were sitting in some chairs there. There are chairs lining the main

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hallway?
A There is couches and chairs down in this end, yes, sir.
Q As is in any major hallway in a residence. And what kind of tasks were they doing? Were they just simply reading so that they could read it fairly easily, or were they with computers?
A Oh, no, they would have been reading or writing.
Q Editing?
A Editing type of thing.
Q And was that the same type of task that was performed in the book room?
A As far as I know.
Q Right.
A I never really observed them working, other than just a very quick glance.
Q Did you seem them working at the computer in the book room?
A Yes, I have seen people working on the computer.
Q Is the computer still there now?

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A I don't know.
Q That's fine. But it was there in July and August of 1995?
A Yes.
Q Okay. Thank you. Actually before I forget, what is the name of your contact at the National Park Service? Who is the project manager over there?
A The person on site?
Q The person on site.
A His name is Joe Michael.
Q Was he the person in charge on-site?
A Yes.
Q And what was his title?
A Probably would be project supervisor.
Q And similar to the task that you were doing before you joined the usher's office?
A That's correct.
Q And you mentioned that he had about five persons working under him?
A Yes.
Q Could you name them off as you are doing

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them silently.
A Doug Loue.
Q Spelling?
A Loue, I believe, is L-o-u-e.
Q Okay.
A Michelle Mickley.
Q M-i-c-k?
A I think it is l-e-y. Their names are probably on the logs.
Q Okay. Good. They would be reflected on the usher's logs?
A No, on the work logs.
Q On the -- oh, on the work logs. Okay.
A I think their names would be listed there. I'm not certain.
Q You mean on the daily construction logs?
A Yes.
Q Let me see if they are.
A If they are not, they prepare a daily proposed work schedule that I look at and their names are on there, so that may be why I think they are on here.

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Q No --
A If they are, they would be at the bottom.
Q -- no, they are not.
A Okay. Well --
Q Roughly. No need to be comprehensive.
A Let's see, Aubrey Davis.
Q Okay.
A Jim Smith. Great name.
Q Certainly better than Viet Dinh.
A But no one confuses you.
Q Precisely.
A Those are the principals.
Q Those are the principal on-site personnel --
A Yes.
Q -- for the Park Service?
A There is a lady that helps in terms of office support.
Q But she doesn't spend time actually on site. These are people, Mr. Loue, Ms. Mickley, Mr. Davis and Mr. Smith and Mr. Michael to a certain extent are the people in the Park Service that you

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said sometimes would do actual on-site escort kind of things?
A They have passes.
Q They have passes.
A The other lady that is in the office does not have a pass.
Q Okay. Great. And they do some of the escort work when the Secret Service needs it?
A When we are shorthanded.
Q When you are shorthanded. So it would be the Secret Service would primarily have the responsibility for the escort work on the third floor?
A Absolutely.
Q And then once in a while, when there is a lot of work going on, like I imagine when the First Lady is out of town or if the First Family is out of town during vacation, when you have 10 different projects going on --
A Exactly.
Q -- at any one time on the third floor, they may ask you to come in and help, and that is the

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usher's office, and that you would task that out to the various people in the executive residence staff?
A Yes. Usually it was more helping people get from one place to another. Secret Service would station people, if you would, but you still have to get there and go get tools or go get materials.
Q So even while -- so at all times they have to be under supervision and surveillance by a member of either your staff or the Secret Service?
A That's correct.
Q And when that is not -- when that is not feasible, then the Park Service -- then you would call on the Park Service when you are really shorthanded?
A That's correct.
Q If you are really shorthanded?
A If it is going to impact the work, that is where I would draw the line.
Q Okay. So let's say that there are three scheduled sites. There is construction on 323 and construction in another part of the third floor and construction in 319-A --

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A Okay.
Q -- simultaneously.
A Okay.
Q So there would usually be three Secret Service officers?
A Probably not be three.
Q Probably not be three.
A It probably would be one or two.
Q One or two that would observe.
A That would observe, maybe they would stand in the doorway where they could see a couple of areas simultaneously.
Q Okay. But that is something that they would have constant surveillance of both areas?
A That's the intent certainly.
Q Okay. And that's a call for the Secret Service --
A That's correct.
Q -- in their professional judgment to make?
A That's correct.
Q And that is true with respect to all private areas for the White House residence; correct?

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A Yes, sir.
Q And by "private areas," you mean the second and third floors?
A That's correct.
Q You don't mean like truly private areas like the Lincoln Bedroom, or the First Lady's or the President's bathroom, or something like that? You mean areas on the second and third floors?
A All areas --
Q All areas.
A -- on the second and third floors.
Q The reason that I asked that was to be more direct, that Mr. Ivey asked you earlier whether the book room is considered to be a private area.
A I would consider all of the living quarters of the second and third floor as a private area, as being a private area. There are some utilitarian areas on the third floor, so that's why I would not consider all of the third floor.
Q The utilitarian areas being like the chef's closet that you were talking about earlier?
A Sure.

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Q Or let's say, the butler's office in the -- down the service hallway?
A Right. And we have a laundry area and a mechanical area.
Q And a major linen room that is off to the side of the wall?
A That's correct.
Q The main linen room or something like that?
A That's correct.
Q Those are the utilitarian areas?
A That's correct.
Q Those are as opposed to the private areas?
A The areas that the family uses that are reserved for the family.
Q And the book room is one of the areas that the family uses?
A That's correct.
Q So while not as private, let's say, as, let's say, as the Lincoln Bedroom, it is still considered to be a private area; that is, an area that the family uses under that definition?
A Yes, sir.

Q Right. And so the same rules that you had illustrated earlier to me with respect to the handling of documents, with the respect to serving of materials, with respect to the moving of furniture and the like would apply to the book room?
A That's correct.
Q So again if a -- so again a construction worker would not place say a 1-inch thick stack of 11-by-17 documents in the book room?
A Not to my knowledge, he wouldn't.
Q It certainly would be cause for removal from the site, as you stated earlier?
A Absolutely.
Q And you certainly have not seen a construction worker do that?
A That's correct.
Q Likewise with any member of your staff?
A That's correct.
Q And likewise you have not seen any member of your staff carrying anything like that?
A That's correct.
Q As a matter of fact, you have never seen

anything like this in the White House?
A That is correct, no, sir.
MR. DINH: That's all I have. Thanks.
MR. IVEY: That's it.
(Whereupon, at 5:36 p.m., the deposition was concluded.)

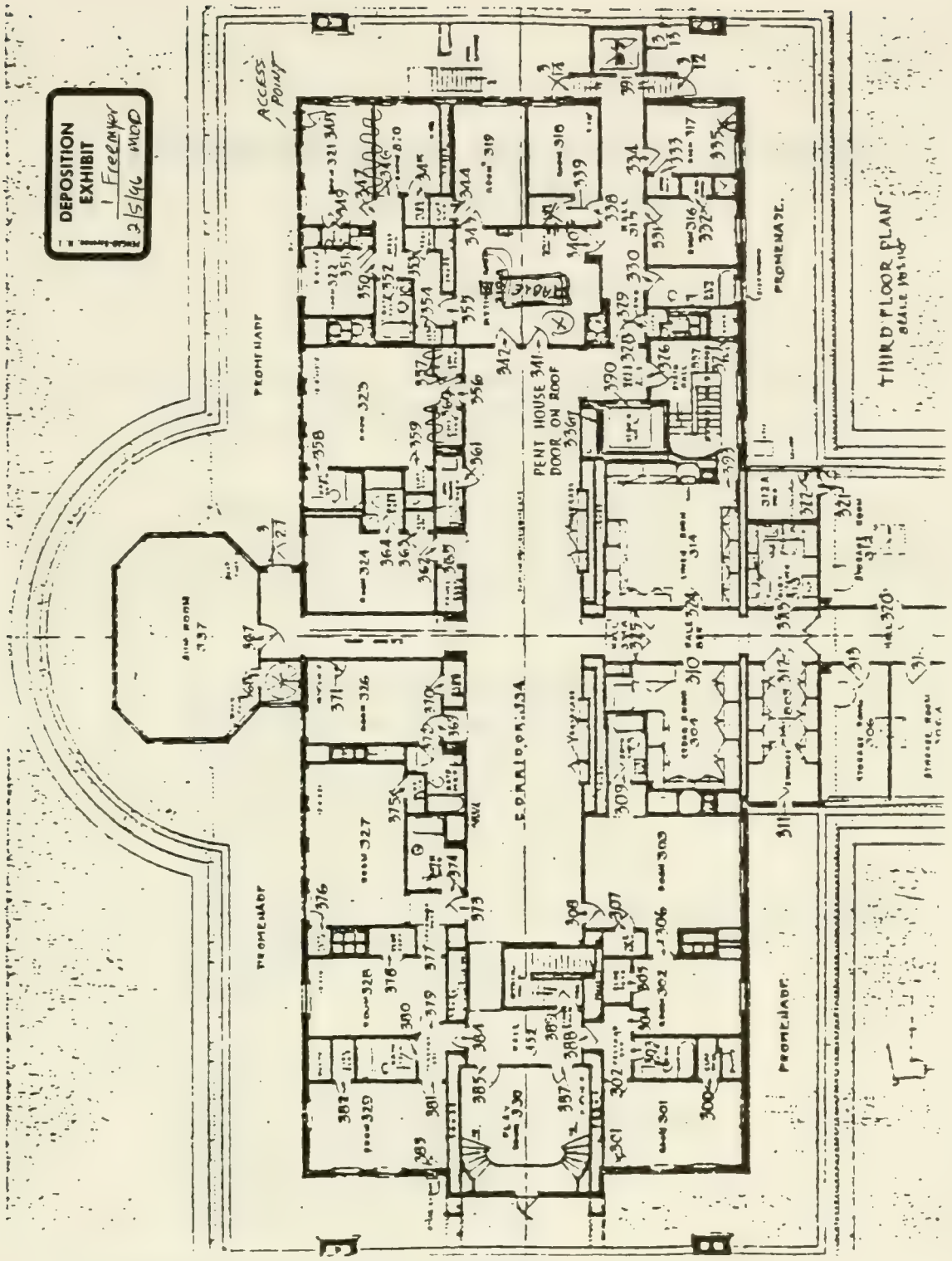
DENNIS W. FREEMYER

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, **MARYBETH** PETERS, the officer before whom th foregoing deposition was taken, do hereby certify that th witness whose testimony appears in the foregoing depositio was duly sworn; that the testimony of said witness wa taken in shorthand and thereafter reduced to typewriting b me or under my direction; that said deposition is a tru record of the testimony given by said witness; that I a neither counsel for, related to, nor employed by any of th parties to the action in which this deposition was taken and, further, that I am not a relative or employee of an attorney or counsel employed by the parties hereto, no financially or otherwise interested in the outcome of thi action.

Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 30, 1999


DEPOSITION EXHIBIT
1 Freeman
3/15/96 MDD
THIRD FLOOR PLAN
PROMENADE
PENT HOUSE 341
DOOR ON ROOF
PROMENADE
PROMENADE
PROMENADE

DEPOSITION OF STEVEN A. SWITZER
IN RE: S. RES. 120

MONDAY, FEBRUARY 5, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of STEVEN A. SWITZER, called for examination pursuant to notice of deposition, at 6:50 p.m. in Room 640–A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, ESQ.
Majority Associate Special Counsel
ROBERT J. GIUFFRA, JR., ESQ.
Majority Chief Counsel
JAMES S. PORTNOY, ESQ.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

FRED W. GIBSON, JR., ESQ.
Office of the Inspector General
Federal Deposit Insurance Corporation
1735 North Lynn Street
Arlington, Virginia 22209
On behalf of the Deponent.

ALSO PRESENT: PAUL WEECH

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PROCEEDINGS

MR. GIUFFRA: Good evening, Mr. Switzer. My name is Robert Giuffra. I'm chief counsel of the Senate Banking Committee. To my left is Jim Portnoy, who is an associate special counsel for the Democrats. Joining us will be Chris Bartolomucci, an associate special counsel for the Majority. This is a deposition being conducted pursuant to Senate Resolution 120 which establishes a special committee to investigate Whitewater Development Corporation and related matters which is administered by the Banking Committee.

The procedure this evening will be I will ask you questions and then Mr. Portnoy will ask you questions. You will have an opportunity to be represented by counsel. You have been chosen to do so by Mr. Gibson. Please state your appearance.

MR. GIBSON: Fred Gibson, senior attorney with the FDIC Office of Inspector General representing Mr. Switzer.

MR. GIUFFRA: If at any time you have any questions about the procedure or you don't understand

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a question, please let us know and we will rephrase the question. Your counsel has the right to object to the forms of the questions and on the grounds of privilege and relevance. The procedure we follow for dealing with such issues is specified in the resolution. As you know, you will be testifying tomorrow at the public hearing.

MR. GIUFFRA: Do you have any questions?

THE WITNESS: No.

MR. GIUFFRA: Please swear the witness.

Whereupon,

STEVEN A. SWITZER

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GIUFFRA:

Q What is your present position?

A I am the Deputy Inspector General for audit in the Federal Deposit Insurance Corporation.

Q I am going to focus your attention on one matter. Before I do that, I just want to ask you, in terms of the RTC IG report, what was your role? This

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is on Madison.
A This is on the investigative report?
Q Yes.
A At the time that I was, of course, at the RTC, I was a Deputy Inspector General and therefore had a supervisory role over the issuance of that report.
Q Did you supervise the conduct of the -- were you responsible primarily for the audit aspect of the investigation?
A Well, in the position I was in, I served over both the audit and the investigative sides. So, I had a managerial role, if you will, with both.
Q I'm going to focus your attention on the billing records that were found at the White House. Those have been identified previously as DKSN 28928 through DKSN 29042.
What was your reaction when you learned of the discovery of these records?
A I guess I was surprised because we had requested information such as this from the Rose Law Firm during the conduct of our work and hadn't

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received it. They explained to us that they no longer existed.
Q Have you had an opportunity to review these newly discovered billing records?
A Yes, I have. I have done some analysis of them.
Q Just generally first, in the various reports that the RTC IG issued where various factual statements were set forth and there was some analysis, do these billing records change the analysis of Rose's conflicts with regard to Madison as set forth in RTC IG's report dated August 3, 1995?
A You asked if they changed the analysis. I don't know that they necessarily changed the analysis. They do provide additional information for us to look at as we try to complete that.
Q Would you describe this additional information as significant information?
A It is information that we did not have before.
Q And you would have wanted to have?
A It would have helped us during the course

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of our investigation in terms of determining whether there were other things that we should look at.
Q Would you describe it as significant information or no?
A Significant to the investigation. Whether it is significant in a bigger picture, I don't know.
Q Would you say --
A To our investigation, it would have been significant, because it was information we did not have.
Q It is also probably the best available evidence of the extent of Rose's work on the Madison matters?
A Yes, to the extent that we earlier had not gotten a lot of information from them, yes, it was really the only information.
Q In order to do the conflicts analysis, it was very important to determine the extent of Rose's work for Madison?
A Well, the whole investigation was focused on conflicts.
Q In order to do that investigation, you had

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to determine the extent of Rose's work for Madison? That was very important to the investigation; right?
A Yes, in the sense of determining the potential of conflicts.
Q In order to determine the extent of any conflict that Rose might have with regard to representing the RTC in the Frost matter because of its prior representation of Madison, you would need to determine what the scope of the prior representation of Madison was; right?
A Yes.
Q You would also need to know the nature of the prior representation of Madison?
A Yes, we would need to know that.
Q And you would need to know to whom the Rose lawyers -- strike that.
You would need to know whether Rose lawyers were involved in, for example, with regard to the IDC Castle Grande project, drafting various types of documents; correct?
A Yes.
Q And who they spoke to at Madison with

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regard to the project?
A I don't know that it was so critical that we needed to know exactly who they were speaking to, so long as we had, for example, information in our investigative report that discussed what appeared obviously to us to be conflicting situations. This was just additional information concerning those.
Q Now, was a man named Seth Ward relevant to your conflicts analysis?
A Yes, he was.
Q He was the father-in-law of Web Hubbell; correct?
A Yes.
Q Web Hubbell was the lead attorney for the RTC in the Frost litigation?
A Yes, I believe he was.
Q These records, do you think these records indicate greater interaction between Mr. Ward and lawyers at the Rose Law Firm than previously known in connection with Castle Grande?
A I really have not looked at it in that sense, in other words, comparing his involvement to

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other involvement to others that were there in the firm.
Q One of the issues in this conflicts analysis was the extent of Rose's prior contact or even representation of Mr. Ward; right?
A Yes. That was discussed in our investigation.
Q So that knowing the number of times, for example, that Mr. Ward spoke with particular lawyers at Rose and for how long would be highly relevant to your investigation?
A From a legal standpoint, I suspect that it would. It would get into the level of involvement. But from my perspective, I think not being a lawyer, if there was one contact and it seemed to be of substance, that would establish a conflict.
Q Your background is what, as an accountant?
A Yes, I'm an accountant.
Q So you don't really look at things from the legal perspective?
A Not unless I have to.
Q What is a reportable event? In terms of a

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conflict, that would be something you would look to Ms. Black for information about?
A Exactly.
Q In looking at the billing records, are there particular items that you can recall -- strike that.
You have had an opportunity to review these billing records?
A Yes.
Q Are there particular items in the billing records that you think are particularly noteworthy?
A From my perspective, the accountant's perspective, what I notice is the difference that existed between things. And by "things" I will clarify it, in essence what they call a billing memo which was, in my mind, like a draft of a bill. That's what they looked at to see if it was right. There were differences in the amounts contained in the billing memos versus that which was contained in this document that was referred to as the billing and payment history, which was, once again reverting to my accounting lingo, this was their true accounts of

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the Rose Law Firm.
And then differences again with respect to the actual invoices.
Q Do you have any view as to the significance of these differences in terms of the conflicts analysis?
A No, I don't.
Q That's something for Ms. Black?
A Yes.
Q You basically focused on the numbers and identified differences?
A Right, and tried to identify where those were, which, since we are not through, we are not done yet.
Q You have provided us with a number of schedules. Let's mark this first one as a "schedule of services performed by H.R. Clinton."
(Switzer Exhibit 1 identified.)
BY MR. GIUFFRA:
Q Describe in your own words what is depicted in this document and its significance.
A Basically this is a listing of the invoices

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and the dates associated when Mrs. Clinton provided some sort of a service, be it a conference or whatever, with Seth Ward.

Q So, you have identified approximately 8.13 hours of work involving Ms. Clinton that can be related to Seth Ward?

A That's what the schedule shows, yes.

Q You have identified 16 either conferences or teleconferences involving Mrs. Clinton and Mr. Ward?

A Yes.

Q And Mrs. Clinton billed fees of $1034.66 for performing these services that relate to Mr. Ward?

A Yes, that's what is shown here.

Q Your legend NLOI, those would be these three items which would be the first item 11 to 12, these would be things that are not listed in the billing invoice but that appear in the billing memo?

A In 1112 or 1120?

Q I am looking at the item in the far left-hand side.

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A Item 12.

Q It looks like it is item 11, 12 and 1 or 2, 11 and 12.

A Yes.

Q It seems like a fairly self-explanatory document. Why did you prepare this document?

A This was just to document the contacts that she had with Seth Ward.

Q Why would her contacts with Seth Ward be relevant to the conflicts analysis?

A It would provide additional documentation in terms of the investigation primarily for Patricia's benefit --

Q She, Ms. Black, would be the one to focus on the legal --

A She would obviously know more of the substance of the pertinence of the meetings and things like that.

Q Did Ms. Black ask you to prepare this schedule?

A Yes, she did.

Q Is there anything more in this schedule

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that we should be aware of?
A No.
Q Pretty self-explanatory.
MR. GIBSON: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q Mr. Switzer, Deposition Exhibit 1, there are two columns on the far right-hand side of the document. One is called "hours per billing memo" and the other is "fees per billing memo." What you have done is that if Mrs. Clinton had conferences with three people, let's take 11/26/85, and she billed one hour, you would just arbitrarily divide the one hour to one-third; correct?
A That's correct. This was just an estimate, if you would, trying to associate some time with it. This kind of goes back and points to the problem we have in general, and that is we have certain of these unexplained differences, and absent additional information, we don't know why they don't jibe.
Q The difficulty is you arbitrarily are assigning time based on -- if she just spoke with

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Mr. Ward and that was all that was billed, you would bill the full amount and that is not an arbitrary assignment of time. If there were several conferences in the same entry, you would be dividing it --
A Exactly, by the number of hours that were there.
MR. GIUFFRA: Let's make this Exhibit 2. This is another schedule of services performed by H.R. Clinton.
(Switzer Exhibit 2 identified.)
BY MR. GIUFFRA:
Q Who asked you to prepare this document?
A This also was prepared for Ms. Black. It is just a summary schedule to look at. Once again, you will see .66, obviously they don't operate on the basis of two-thirds of an hour. So, for example, you see matter number 1, the first three items, same date, 4/23/85, and you see three conferences, one with Massey, one with McDougal and Latham and one with Gregory.
Q So, really when you look at this document,

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if you look to the third page, the number we have, 5,514 for the fees billed per the billing memo, that's the amount of work you can account for looking through the billing memos?

A Yes. The breakdown of that as shown in the hours is once again just an estimate on our part.

Q The hours is broken out by, she had, for example, conferences with two people, you would divide the one hour billed in connection with those conferences?

A Yes.

Q The 42.82 total hours billed, that is reflecting the total hours she billed that are accounted for in the billing memo?

A Yes.

Q Let me show you a document we prepared. Let's turn to page --

MR. GIBSON: Off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q Turn to page DKSN 29011.

A Okay.

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Q If you look at that document, the amount to bill is 2,731.25 and the standard value is $912.50; correct?

A Yes.

Q So, Mrs. Clinton billed $1818.75 more than what would be determined just looking at her hours; correct?

A How much?

Q $1818.

A Yes, plus or minus, yes, without doing the math.

Q If you divide her hourly rate of 125 into that, it gives you about 14-1/2 hours of work; correct?

A Okay. I am not doing the math.

Q Let me show you a document we prepared. This is Black Exhibit 1. This was our attempt to figure out any unaccounted-for time. You came up with on your chart that Mrs. Clinton had done 42, 43 hours of work. But her billings are for a greater amount of work. We calculate her additional work to total $1818.75, which equals 14.55 hours. If you

look at the actual amount billed on the January 30, 1995 bill, it is 4,651.50. Do you recall that?

A January, which bill?

Q January 30, '95.

MR. PORTNOY: For the record, that would be DKSN 029010.

MR. GIBSON: What was the number?

MR. PORTNOY: 29010.

THE WITNESS: I have it.

BY MR. GIUFFRA:

Q The total amount is $4651, right, and 50 cents? Total for services billed?

A I see where you are.

Q The billing memo amount does not add up to --

A Just quick math, it does not add up to that amount.

Q What we have learned is that the additional amount, the 1,189, reflects the adding of the September and October '95 bills -- '85 bills. That gives you the total. We have learned that from Mr. Clark. Are you aware of any of this?

A I watched part of Mr. Clark's testimony. So, yes, I'm aware of how he explained that some previous amounts from previous bills, if you would, invoices, were paid in a subsequent invoice. While those numbers add up, from an auditor's perspective, the problem is the bill was previously marked paid.

Q I know. I had that same problem.

MR. PORTNOY: If the bill was marked paid, you don't know when it was paid, do you?

THE WITNESS: When you go back and look at the earlier bill -- the one I'm thinking of here is -- once again, January 30th, and we had a difference of 745 bucks between the actual invoice and the billing history.

Yes, it adds up quite nicely. The two items prior to that -- but the two items prior to that, at least one of them, as I recall, was marked paid sometime in December, while the 2518 was marked paid later. I don't have the piece of paper in front of me.

MR. GIUFFRA: I understand.

THE WITNESS: Do you follow me, Jim?

MR. PORTNOY: Yes.
BY MR. GIUFFRA:
Q You haven't given any thought to this issue of the unaccounted 14-1/2 hours that Mrs. Clinton billed on the IDC matter based on the fact that she billed for more than $1818?
A Once again, from an accounting and auditor's perspective, I don't have anything that supports it.
Q You see her amount to bill is higher than what is reflected --
A Yes, I see a difference, but I don't -- we are not through yet, and I have no way of reconciling that with the documents that I have.
MR. GIUFFRA: Let's mark this Exhibit 3.
(Switzer Exhibit 3 identified.)
BY MR. GIUFFRA:
Q What is reflected in this document, Exhibit 3?
A What this is is basically the schedule of the billing documents which we received. It schedules them out by invoice dates, by invoice

numbers. Then it has the shaded column highlights, if you would. The first column is the amounts reflected in the billing memos, which are what I call prebills that are prepared for the attorney to review and make sure that they are satisfactory. The second item is the billing history and payment -- billing and payment history, which is their accounting records reflecting amounts billed and what was paid, if you would.
Then we do some calculations between the first two where we noted some differences. Then we show another column that is column 3, identified here as the actual invoice figures. These were the invoices that were generated and I assume sent to Madison for payment. Once again, we identify some differences between those numbers.
Q What is the significance of these differences, just generally?
A Well, from an accounting point of view, it throws them out of balance. We don't know, from what we are doing, what the explanation is.
Q It appears there is a difference between

the amount of time reflected in the billing memos and the billing history, i.e., the amount of money that was billed -- strike that. It is hard to know what?

A The accounting records, if you would. It is a historical document. Column 3 is the actual invoices, what was billed.

Q The billing history is what is reflected in the billing memo -- what is reflected -- the column 1 is the billing memos. We know what those are. There are billing memos that are missing. So that makes your work more difficult?

A Yes, that's true.

Q So, this is -- we may use this chart tomorrow. For example, you don't have billing memos for September 20, '85 bill, the October 29, '85 bill, the March 3, '86 bill. You are missing those billing memos; right?

A I didn't get those three that you mentioned.

Q 3/6/86, 10/29/85, 9/20/85, those are missing. All the ones where it says N/A, those are missing, document not available for review in

column 1.

A Yes. There are nine instances of that.

Q You have identified nine instances where the billing memos are missing.

A Right.

Q Then you look at the billing history, and what is the billing history? That's the amount that is reflected on the top?

A On the top summary of the billings and payments.

Q Which indicates that Madison paid $21,401.87 to Rose; correct?

A Yes.

Q The increase that you have identified is an increase of 2564.25; correct?

A Right.

Q The actual invoice is the amount, if you add up all the invoices together, you come up with a total of 24,572.67; correct?

A Yes, that's right.

Q Let me just focus your attention, let's take a look at the 1/30/86 bill.

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A Okay.
Q That one, if you add up the billing memo, you come up with 1647.30 worth of work?
MR. GIBSON: Which 1/30?
MR. GIUFFRA: From matter 5.
THE WITNESS: 1647.30.
BY MR. GIUFFRA:
Q The billing history, the amount of money is 3466.05?
A Yes.
Q That gives you the difference of 1818 that I have been focusing on?
A Yes.
Q That seems to have been reflected the cause Mrs. Clinton having an amount that is higher than the standard billing?
A Yes. There were annotations to provision it that way, as I recall.
Q The actual invoice is what is on the actual January 30, '86 bill; correct?
A Right.
Q And you show over the billing memo with a

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3,023.05 difference and over the payment history and the invoice you get a 1204.30 difference; right?
A Right.
Q And I guess the difference is that if you add up the September and October bills, I think that adds up to 1204.30.
A Yes, it does.
Q This is just more of the confusion that is generated by these.
A This goes back to what I was saying a while ago. I would have to look and see exactly. But when Mr. Clark testified, he said that that's what that represented. But I believe we have --
Q Your difficulty is the invoices themselves say "paid" stamped on each one?
A Yes.
Q From an auditor's standpoint, you would expect that to mean that was paid?
A Yes.
Q The significance of this, perhaps from a conflicts perspective, is it shows more work on Madison matters by Rose Law Firm than people

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previously thought?
A Exactly, and from an accounting standpoint, and listing Mr. Clark's testimony --
Q You can't make heads or tails of it?
A Yes, you can't. And if what he is saying is accurate, then it appears there have been duplicate payments made. They paid it once and then they paid it again in a subsequent bill.
MR. PORTNOY: Do the records show to you it was actually paid twice? I believe you indicated the payment history reflects lower payments than the invoices?
THE WITNESS: That's true.
MR. PORTNOY: So, your statement that the bill was paid twice is a reflection of looking at the invoice?
THE WITNESS: Based on the paid stamp on the invoice.
MR. PORTNOY: Not actually having traced funds?
THE WITNESS: Right. The only way we can do that is get our hands on the trust account.

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BY MR. GIUFFRA:
Q In fact, that document is missing, the trust account?
A I don't know if it is missing.
Q Let me show you a document we prepared. This is Black Exhibit 2. What this is an attempt to do is list all of Mrs. Clinton's time that was billed to IDC, total it up. We come up with 15 hours worth of work. Then we have this 1818 that gets billed to matter 5. But we don't know what it is. You get 14-1/2 hours if you divide her hourly rate. Does that seem like a proper accounting analysis?
A That's one way to look at it. That's one of the things we tried to do to look at it to try to come up with something. Really the only way to tie down that 1818.75 is to either see some billing memos or to get our hands on part of the trust account records.
Q The mystery is what Mrs. Clinton did to justify this 1818.75 worth of work?
A Right. We have no idea what that is.
Q It would be important to know that for the

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conflicts analysis because you would want to know the extent of her work, number one?
A Yes.
Q Or what she did?
A Yes.
Q It could well be this 1818.75 is just a premium that she charged; that's one possible explanation. Or it could reflect actual work that was done?
A I wouldn't want to speculate one way or the other.
Q Those are the two options.
Let me ask you another question. Did you have occasion to examine whether when Mrs. Clinton, for example, billed for a teleconference or a conference with someone if it was with someone at the Rose Law Firm whether that person had a similar entry for a conference with Mrs. Clinton?
A We looked at that type of thing during our audit. We did not look at it in connection with this because our audit did not go back that far.
Q Let me show you something we prepared as

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Black Exhibit 4. Take your time and look at that fairly closely.
MR. PORTNOY: This is Exhibit 4 to Ms. Black's deposition. For the court reporter, Exhibit 2, the last exhibit referred to, was from Mrs. Black's deposition.
MR. GIUFFRA: Yes.
(Witness examined the document.)
MR. GIBSON: Let's go off the record for a moment while he is looking at this.
(Discussion off the record.)
BY MR. GIUFFRA:
Q This Black Exhibit Number 4, this is the kind of analysis you would prepare if you were examining a law firm's bill to the RTC; right?
A Exactly.
Q So, you would want to see whether if one lawyer is billing time for a conference with -- strike that.
If Lawyer Jones is billing for a conference with Lawyer Smith, you would want to see whether Lawyer Smith is also billing for the conference?

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A Exactly. That is one of the things we look for.
Q You have done a lot of work, in fact, examining law firm bills that have been submitted to the RTC?
A Yes, we have.
Q And that's in order to see whether there has been overbilling by law firms?
A In some cases --
Q It can be over- or underbilling?
A Yes. Once again, let me explain the difference. You have something here that indicates one person was in a conference and the other person was not. So, we look at it from that standpoint. There are also some rules, I don't recall specifically what they were, about how much we pay for what we called intrafirm conferencing.
Q At least on a billing memo, since the billing memo is being used, it is the raw material for the bill, you would want to see the time reflected by both parties to a conversation?
A It would be logical, yes.

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Q That's the normal way you see a legal bill down. In looking through the bills found at the White House, you identified instances in which Mrs. Clinton billed for conferences with Rose lawyers and the corresponding Rose lawyer did not bill for a conference with Mrs. Clinton?
A I did not look specifically for that. So, I couldn't -- that is what we are analyzing right now as part of what we are doing. We had been focusing our attention more towards the conflicts side.
Q But you are attempting to do this kind of analysis internally?
A Ultimately, yes. We will have something like that and -- the reason that we have not is this predates the RTC work.
Q The RTC, it is not interested in whether it is being overbilled. The only relevance to the conflicts issue is if the Rose Law Firm did more work on Madison than it previously thought might go to the conflicts issue.
A That might go to the conflicts issue, yes.
Q The amount of work that was done.

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This is the kind of analysis that you normally would conduct in connection with doing an audit of a law firm's bills?

A Yes.

MR. PORTNOY: You would only -- I believe you testified that the reason you haven't performed this kind of analysis in this case is because these bills predate the representation by the Rose Law Firm of the RTC and you are only looking at Rose Law Firm bills that pertain to the representation of the RTC?

THE WITNESS: Our audit did.

MR. GIUFFRA: These bills were not submitted -- these Madison -- Rose --

BY MR. GIUFFRA:

Q Rose did not submit these bills to the RTC for payment; right? That's why you are not looking into it?

A Right.

Q You may presently be doing -- you may be doing this --

A We can do that based on this information.

Q But for the conflicts analysis to show

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maybe there are more billings.

A We are looking more at it in this direction, more directed toward the conflict thing because that is what our investigation was toward.

Q How much time have you spent reviewing these billing records yourself?

A Not a great deal. The staff has done a lot of work. I would say a total of three or four days, something like that.

Q Just looking at the records, can you identify other accounting issues that you have come upon from your review of these records?

A Other than specific differences you mean?

Q Yes.

A To me, the differences between these things and the absence of some of the billing memos, because it is the type of thing that causes problems from the standpoint of an audit. There is not support for these things.

Q So there are discrepancies in the bills?

A Yes.

Q As to the amount billed and the billing

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memo and the payment history?
A Of course, the thing we mentioned a while ago, it is mundane, if you would, but when they mark the bill paid or pay it again or what appears to pay it again type of thing, that bothers auditors, if you will.
Q Are there other things in these bills that were found at the White House that you have identified or flagged as potential issues for purpose of the conflicts analysis?
A Not that hit me at the moment, no.
Q You didn't look at particular entries? Ms. Black did?
A Patricia looked -- focused on the details of it. The auditors, we pulled together the summary stuff for analysis.
Q For example, you are not -- strike that.
Would you agree that these billing records are the best available evidence of the extent and nature of Rose's work for Madison that you have seen?
A It is the only ones we have seen.
Q Otherwise, you have been relying on the

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interview statements with people or documents; right?
A Prior to us seeing those, yes, we relied on other information to try to piece together what was going on.
Q Would you agree that these would be very important -- these are very important -- these billing records are very important evidence in connection with the conflicts analysis that is being done now by the FDIC?
A Yes, they are.
Q Why don't you elucidate for the record, why do you think these billing records are very important evidence?
A They provide us additional information that we did not have when we performed our original investigation.
Q For example, showing when lawyers did things on particular dates and also the amount of time that was billed and who they spoke to; right?
A Details such as that. But I mean also these were just in their total. We hadn't seen these type of things. It provided some additional

information.
Q As far as you know, the RTC IG had been trying to get these things for a little bit under two years?
A We had been looking for them for a long time. As I think I said earlier, the Rose Law Firm told us they did not have them and did not produce them.
MR. GIUFFRA: I don't really have any other questions.

EXAMINATION

BY MR. PORTNOY:
Q I have about five minutes.
You testified before that there were some apparent differences between the amounts shown on invoices and the amounts that appear to have been paid.
A Yes.
Q You don't have any evidence, do you, that bills were paid twice?
A No, we don't. We have evidence in terms of number of a discrepancy, but we don't know what the

explanation of it is.
Q The total amount received by the Rose Law Firm according to the records you reviewed is approximately $21,000?
A Well, the billing history shows that the $21,400 and some change, but then the invoices add up to $24,570-something. So there is a difference there.
Q If anything, though, that would suggest that there were invoices that were not paid rather than invoices that were paid twice, wouldn't it?
A It seems like it would say to me that assuming that the invoices were paid, they paid more than the billing history showed.
Q Do you have any evidence that the Rose Law Firm received more money from Madison Guaranty than the billing history shows, actually received?
A Well, we are working off of the invoices. Now I'm trying to remember whether they are all marked paid. That's what suggests to us that yes, they made payments, but we don't know.
MR. GIUFFRA: The question is whether is it

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more accurate -- is the billing history more accurate or is the invoice more accurate? Is that the issue? To reflect the actual payments:

THE WITNESS: It is kind of what came first, the chicken or the egg?

BY MR. PORTNOY:

Q There is a discrepancy between the billing history and the invoices.

A Exactly.

Q You don't know what it means.

A The resolution of that is the trust account records.

Q Lastly, sir, you stated in response to Mr. Giuffra's question that the billing records are very important evidence for the conflicts analysis.

A Yes.

Q When you speak of important evidence, do you mean evidence that the ultimate determiner of whether conflicts exist -- strike that. Let me rephrase it.

What do you mean when you say "important evidence"?

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A Well, it provided us information which we did not have when we conducted our investigation. It gave us additional details in terms of time charges, amount charged and who was involved.

Q The purpose of your investigation was to compile a record that somebody else would analyze to determine whether conflicts existed?

A That's right. Our investigation was to look into the conflict situation and then for the RTC to consider it.

Q It wasn't your task to make a determination whether conflicts existed?

A No, it was not.

Q So, when you say that information was important, do you mean that it was important for you to pass on to somebody else?

A That would certainly be part of it. But on the other hand, there could be information here which would have caused us to question additional witnesses that we did not question. I don't know that that necessarily happened. But that is a potential.

Q For example, these invoices, these bills

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indicate that Mrs. Clinton had some involvement with regard to something called the IDC transaction; correct?

A Yes, they did.

Q In view of these invoices -- strike that.

You did not interview Mrs. Clinton in connection with your investigation, did you?

A No.

Q In view of these invoices, you might well now have interviewed Mrs. Clinton?

A We might have.

Q That's an area of inquiry that perhaps you might have followed up on had you had the billing records?

A That could have been, yes.

Q You might have, for example, asked Mrs. Clinton about some of the discrepancies between the actual amount billed and the billing memos and the payment history?

A If we interviewed her, I would assume we would have.

Q Because she was the billing partner?

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A That's how she is showing up here, yes.

MR. PORTNOY: I don't have any further questions. Thank you very much. Look forward to seeing you tomorrow.

(Whereupon, at 7:50 p.m., the deposition was concluded.)

STEVEN A. SWITZER

CERTIFICATE OF NOTARY PUBLIC & REPORTER 43

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey
Notary Public in and for the
District of Columbia

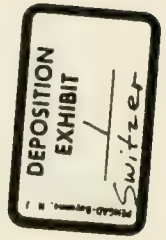
My Commission Expires SEPTEMBER 14, 1996

Steven A. Switzer 2-5-96

DEPONENT

ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
37	22	a number of a discrepancy	a number of discrepancies	typographical

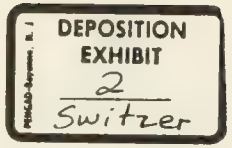


SCHEDULE OF SERVICES PERFORMED BY H.R. CLINTON

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TICKMARK LEGEND: **NOBM = Service not listed on billing memo, but appears on invoice.**
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	INVOICE #	MATTER #	DATE	ATTORNEY	ACTIVITY CATEGORY	DESCRIPTION OF SERVICE	HOURS PER BILLING MEMO	FEES PER BILLING MEMO	TICKMARKS
(1)	9389	5	11/14/85	Clinton	Conference	With Seth Ward Re: Purchase from Brick Lile	0.50	$62.50	
(2)	9388	4	11/20/85	Clinton	Conference	With S. Ward	0.50	$62.50	NLOI
(3)	9386	1	11/26/85	Clinton	Conference	With S. Ward	0.33	$41.66	
(4)	9389	5	12/06/85	Clinton	Teleconference	With Seth Ward, Daryl Dover	0.30	$37.50	
(5)	9389	5	12/10/85	Clinton	Teleconference	With Seth Ward	0.25	$31.25	
(6)	9389	5	12/11/85	Clinton	Teleconference	With Seth Ward	0.50	$62.50	
(7)	9389	5	12/19/85	Clinton	Teleconference	With Seth Ward	0.50	$62.50	
(8)	9389	5	12/20/85	Clinton	Teleconference	With Seth Ward	0.50	$62.50	
(9)	9389	5	12/23/85	Clinton	Teleconference	To and From Seth Ward's Office	1.00	$125.00	
(10)	9389	5	12/24/85	Clinton	Teleconference	With Seth Ward	1.00	$125.00	
(11)	9387	2	12/26/85	Clinton	Conference	With S. Ward	0.25	$31.25	NLOI
(12)	9389	5	01/07/86	Clinton	Conference	With Seth Ward	0.50	$62.50	NLOI
(13)	10150	5	02/28/86	Clinton		Seth Ward	0.80	$100.00	
(14)	10918	4	05/01/86	Clinton	Teleconference	With S. Ward Re: Option	0.50	$70.00	
(15)	10918	4	05/01/86	Clinton	Conference	With S. Ward	0.50	$70.00	
(16)	11470	4	06/10/86	Clinton	Conference	With S. Ward	0.20	$28.00	
	TOTALS						8.13	$1,034.66	



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4974	1	04/23/85	Clinton	Conference	With R. Massey	0.66	$80.00	
4974	1	04/23/85	Clinton	Conference	With J. McDougal and J. Latham	0.66	$80.00	
4974	1	04/23/85	Clinton	Conference	With W. Gregory	0.68	$80.00	
4974	1	04/24/85	Clinton	Conference	With R. Massey	0.50	$60.00	
4974	1	04/24/85	Clinton	Teleconferences	With R. Massey, J. Latham, Davis Fitzhugh	0.50	$60.00	
4974	1	04/24/85	Clinton	Review	Draft Documents	0.50	$60.00	
4974	1	04/25/85	Clinton	Conference	With R. Massey	0.25	$30.00	
4974	1	04/25/85	Clinton	Review	Subscription Agreement	0.25	$30.00	
4974	2	04/26/85	Clinton	Conference	With John Latham, Davis Fitzhugh, Rick Massey	2.00	$240.00	
4974	1	04/29/85	Clinton	Teleconference	With B. Bassett, Securities Commissioner	0.50	$60.00	
4974	1	04/29/85	Clinton	Teleconference	With R. Massey	0.50	$60.00	
5463	2	05/08/85	Clinton	Teleconference	With R. Massey	0.50	$60.00	
5462	1	05/17/85	Clinton	Teleconference	With R. Massey	0.25	$30.00	NOBM
5462	1	05/17/85	Clinton	Review	Documents	0.25	$30.00	NOBM
5462	1	05/21/85	Clinton	Review	Application	0.35	$42.00	
6098	1	06/04/85	Clinton	Teleconference	With R. Massey	0.20	$24.00	
6098	1	06/05/85	Clinton	Teleconference	With J. McDougal & C. Giroir	0.20	$24.00	
6098	1	06/07/85	Clinton	Teleconference	With R. Massey	0.50	$60.00	
6098	1	06/17/85	Clinton	Review	Application Ammendments	0.30	$36.00	
6655	2	07/16/85	Clinton	Teleconference	With R. Massey	0.10	$12.00	
6655	2	07/19/85	Clinton	Teleconference	With R. Massey	0.20	$24.00	
6655	2	07/19/85	Clinton	Teleconference	With S. McDougal	0.20	$24.00	
6655	2	07/19/85	Clinton	Teleconference	With R. Massey	0.20	$24.00	
6655	2	07/19/85	Clinton	Review	Memo	0.20	$24.00	
6655	2	07/19/85	Clinton	Teleconference	With S. McDougal	0.20	$24.00	
6655	2	07/24/85	Clinton	Teleconference	With R. Massey and J. Latham	1.00	$120.00	
8036	2	07/25/85	Clinton	Teleconference	With R. Massey	0.50	$60.00	NLOI
7001	2	08/21/85	Clinton	Teleconference	With J. Latham	0.20	$28.00	
8035	4	09/04/85	Clinton	Review	Letter to Barnett	0.40	$50.00	
8035	4	09/05/85	Clinton	Teleconference	With R. Massey	0.30	$37.50	NLOI
8035	4	09/20/85	Clinton	Teleconference	With J. Latham, R. Massey	0.50	$62.50	
8035	4	09/20/85	Clinton	Conference	With D. Knight, R. Massey	0.50	$62.50	
9389	5	11/14/85	Clinton	Conference	With Seth Ward Re: Purchase from Brick Lile	0.50	$62.50	
9388	4	11/20/85	Clinton	Conference	With W. Hubbell	0.50	$62.50	NLOI

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9388	4	11/20/85	Clinton	Conference	With S. Ward	0.50	$62.50	NLOI
9386	1	11/26/85	Clinton	Conference	With S. Ward	0.33	$41.66	
9386	1	11/26/85	Clinton	Conference	With W. Hubbell	0.34	$41.68	
9386	1	11/26/85	Clinton	Conference	With T. Thrash	0.33	$41.66	
9389	5	12/04/85	Clinton	Conference	With R. Massey	0.50	$62.50	
9389	5	12/06/85	Clinton	Teleconference	With Seth Ward, Daryl Dover	0.30	$37.50	
9389	5	12/10/85	Clinton	Teleconference	With Seth Ward	0.25	$31.25	
9389	5	12/10/85	Clinton	Teleconference	With Daryl Dover	0.25	$31.25	
9389	5	12/11/85	Clinton	Teleconference	With Seth Ward	0.50	$62.50	
9389	5	12/19/85	Clinton	Teleconference	With Seth Ward	0.50	$62.50	
9388	4	12/20/85	Clinton	Conference	With R. Massey	1.00	$125.00	NLOI
9389	5	12/20/85	Clinton	Teleconference	With Seth Ward	0.50	$62.50	
9389	5	12/20/85	Clinton	Search	For Map	0.50	$62.50	
9389	5	12/23/85	Clinton	Teleconference	To and From Seth Ward's Office	1.00	$125.00	
9389	5	12/24/85	Clinton	Teleconference	With Seth Ward	1.00	$125.00	
9387	2	12/26/85	Clinton	Teleconference	With Election Commission	0.25	$31.25	NLOI
9387	2	12/26/85	Clinton	Conference	With S. Ward	0.25	$31.25	NLOI
9389	5	01/07/86	Clinton	Conference	With Ken Shemin	0.50	$62.50	
9389	5	01/07/86	Clinton	Conference	With Seth Ward	0.50	$62.50	NLOI
9389	5	01/14/86	Clinton	Conference	Conference with J. Birch, K. Shemin, R. Donovan	1.00	$125.00	
10150	5	02/17/86	Clinton	Drafted	Response to Auditor's Request	0.50	$62.50	
10150	5	02/28/86	Clinton		Seth Ward	0.80	$100.00	
10150	5	03/03/86	Clinton	Teleconference	With Jane Dickey Re: Port	0.25	$31.25	
10150	5	03/03/86	Clinton	Conference	With Jane Dickey Re: Port	0.25	$31.25	
10150	5	03/10/86	Clinton	Review	Donovan Memo	0.30	$37.50	
10149	4	03/21/86	Clinton	Teleconference	With John Latham	0.10	$12.50	
10919	5		Clinton	Review	Memo on Madison Guaranty as Public Utility	0.30	$32.00	NOBM
10919	5	04/07/86	Clinton	Teleconference	With Don Denton	0.20	$28.00	
1093?	6	04/09/86	Clinton	Conference	With Don Denton	1.50	$210.00	
1093?	6	04/15/86	Clinton	Teleconference	With Harvey Bell	0.50	$70.00	
1093?	6	05/01/86	Clinton	Conferences	With Herb Rule	0.34	$46.68	
1093?	6	05/01/86	Clinton	Teleconference	With Don Denton	0.33	$46.66	
1093?	6	05/01/86	Clinton	Teleconference	With Rick Cobb	0.33	$46.66	
10918	4	05/01/86	Clinton	Teleconference	With S. Ward Re: Option	0.50	$70.00	

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10918	4	05/01/86	Clinton	Conference	With S. Ward	0.50	$70.00	
10918	4	05/01/86	Clinton	Prepare	Option	0.50	$70.00	
10918	4	05/01/86	Clinton	Teleconference	With Mike Schauffler	0.50	$70.00	
1093?	6	05/02/86	Clinton	Teleconference	With Buzz Dougherty	0.34	$46.68	
1093?	6	05/02/86	Clinton	Teleconference	With Herb Rule	0.33	$46.66	
1093?	6	05/02/86	Clinton	Conferences	With Kevin Burns	0.33	$46.66	
1093?	6	05/06/86	Clinton	Conference	With Kevin Burns and Herb Rule	1.00	$140.00	
1093?	6	05/06/86	Clinton	Teleconference	With Don Denton	1.00	$140.00	
11471	6	05/12/86	Clinton	Review	Letter from Dougherty	0.18	$23.34	
11471	6	05/12/86	Clinton	Teleconference	With H.C. Rule	0.16	$23.33	
11471	6	05/12/86	Clinton	Teleconference	With Grigg Dougherty	0.16	$23.33	
11471	6	05/13/86	Clinton	Teleconferences	With H.C. Rule	0.50	$70.00	
11471	6	05/19/86	Clinton	Teleconference	With Don Denton	0.20	$28.00	
11471	6	05/29/86	Clinton	Correspondence	To Buzz Dougherty	0.50	$70.00	
11471	6	05/29/86	Clinton	Teleconference	With Don Denton	0.50	$70.00	
11470	4	06/10/86	Clinton	Teleconference	With R. MAssey	0.20	$28.00	
11470	4	06/10/86	Clinton	Conference	With S. Ward	0.20	$28.00	
12686	6	07/15/86	Clinton	Teleconference	With David Hall	0.15	$21.00	
12686	6	07/15/86	Clinton	Teleconference	With Don Denton	0.15	$21.00	
12686	6	07/16/86	Clinton	Correspondence	To Rule	0.10	$14.00	
12686	6	07/16/86	Clinton	Correspondence	To Dougherty for Denton	0.10	$14.00	
12686	6	07/17/86	Clinton	Correspondence	To Denton	0.10	$14.00	
16446	4	03/16/87	Clinton	Prepare	Opinion Letter to Peat, Marwick, Mitchell & Co.	3.57	$500.00	
TOTALS						42.82	$5,514.00	

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MATTER NUMBER	INVOICE DATE	INVOICE NUMBER	COLUMN #1 BILLING MEMO Total	COLUMN #2 BILLING HISTORY Total	Increases or Decreases Between Billing Memo and Billing & Payment History COLUMN #2 – #1	COLUMN #3 ACTUAL INVOICE Total	Increases or Decreases Between Billing & Payment History and Actual Invoice COLUMN #3 – #2	Increases or Decreases Between Billing Memo and Actual Invoice COLUMN #3 – #1
1 & 2	05/08/85	4974	$2,018.00	$2,018.00	$0.00	$2,018.00	$0.00	$0.00
1	06/10/85	5462	$82.20	$190.20	$108.00	$190.20	$0.00	$108.00
1 & 2	07/15/85	6098	$2,041.50	$1,944.00	($97.50)	$1,944.00	$0.00	($97.50)
1 & 2	08/08/85	6655	$880.35	$880.35	$0.00	$880.35	$0.00	$0.00
1	09/12/85	7000	n/a	$90.00	n/a	$90.00	$0.00	n/a
1	12/05/85	8037	n/a	$655.00	n/a	$655.00	$0.00	n/a
1	01/30/86	9386	$1,046.00	$1,773.50	$727.50	$2,518.50	$745.00	$1,472.50
1	07/28/86	11941	n/a	$5.59	n/a	$5.59	$0.00	n/a
1	01/15/87	15422	n/a	$6.30	n/a	$6.30	$0.00	n/a
2	06/10/85	5463	$889.00	$889.00	$0.00	$889.00	$0.00	$0.00
2	09/12/85	7001	$30.10	$30.10	$0.00	$30.10	$0.00	$0.00
2	12/05/85	8036	$724.90	$724.90	$0.00	$724.90	$0.00	$0.00
2	01/30/86	9387	$227.50	$227.50	$0.00	$982.50	$755.00	$755.00
3	12/05/85	6995	n/a	$89.51	n/a	$89.51	$0.00	n/a
4	09/12/85	6996	$234.00	$234.00	$0.00	$234.00	$0.00	$0.00
4	12/05/85	8035	$212.50	$232.50	$20.00	$232.50	$0.00	$20.00
4	01/30/86	9388	$381.25	$68.75	($312.50)	$535.25	$466.50	$154.00
4	04/07/86	10149	$13.55	$13.55	$0.00	$13.55	$0.00	$0.00
4	05/22/86	10918	$392.50	$392.50	$0.00	$392.50	$0.00	$0.00
4	06/27/86	11470	$56.00	$56.00	$0.00	$56.00	$0.00	$0.00
4	03/30/87	16446	$500.60	$500.60	$0.00	$500.60	$0.00	$0.00
5	09/20/85	7090	n/a	$654.30	n/a	$654.30	$0.00	n/a
5	10/29/85	7566	n/a	$550.00	n/a	$550.00	$0.00	n/a
5	01/30/86	9389	$1,647.30	$3,466.05	$1,818.75	$4,670.35	$1,204.30	$3,023.05
5	03/06/86	9694	n/a	$993.25	n/a	$993.25	$0.00	n/a
5	04/07/86	10150	$886.12	$886.12	$0.00	$886.12	$0.00	$0.00
5	05/22/86	10919	$31.00	$121.00	$90.00	$121.00	$0.00	$90.00
6	05/27/86	109??	$918.45	$1,128.45	$210.00	$1,128.45	$0.00	$210.00
6	06/27/86	11471	$2,104.55	$2,104.55	$0.00	$2,104.55	$0.00	$0.00
6	09/08/86	12686	$364.00	$364.00	$0.00	$364.00	$0.00	$0.00
6	12/12/86	14438	n/a	$112.30	n/a	$112.30	$0.00	n/a
TOTALS			SEE NOTE 1	$21,401.87	$2,584.25	$24,572.67	$3,170.80	$5,735.05

n/a = document not available for review

NOTE 1: Billing memoranda for several of the invoices were not provided for our review. Accordingly, no total has been shown in this column.

DEPOSITION OF NANCY HERNREICH
IN RE: S. RES. 120

TUESDAY, FEBRUARY 6, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of NANCY HERNREICH, called for examination pursuant to notice of deposition, at 11:10 a.m. in Room 640–A of the Hart Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, ESQ.
Majority Associate Special Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ROBERT CEARLEY, ESQ.
217 West Second Street
Suite 350
Little Rock, Arkansas 72201
On behalf of the Deponent.

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PROCEEDINGS

MR. O'CALLAGHAN: On the record. Good morning, my name is Michael O'Callaghan. I am an Associate Special Counsel for the Majority, the Senate Special Committee investigating Whitewater Development Corporation and other related matters. And with me is Lance Cole, who is the Deputy Democratic Special Counsel for the Minority.

Before we begin this morning, I wanted to get it on the record, with regard to our understanding between the witness, the witness's counsel and counsel for the Majority and Minority, that the witness and the witness's counsel has consented to the witness being sworn in, via telephone, by the court reporter.

MR. CEARLEY: This is Robert Cearley. That is correct.

MR. O'CALLAGHAN: Do you agree with that as well?

THE WITNESS: Yes.

MR. COLE: Ms. Hernreich, just as we will try to speak loudly and directly into the speaker of

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our speakerphone, if you will speak loudly, too, it will help the court reporter here in hearing you.

THE WITNESS: Okay.

MR. COLE: Thank you.

Whereupon,

NANCY HERNREICH

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. O'CALLAGHAN: This deposition is conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority, and other related matters. And those would generally be the main focus of today's deposition.

This deposition is in advance of public hearings which are likely to occur later in February, and there is a possibility you will be asked to

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testify at those hearings. We will ask a series of questions. You are testifying under oath; you just were sworn in.

If you don't understand a question, either let me or Mr. Cole know and we will rephrase the question for you if you need a break also let us know, at any time.

And Mr. Cearley, I think we've discussed, if you and your client would like to discuss something with each other that -- we will take a break and you can talk to her through another telephone line.

MR. CEARLEY: Okay. Will we be furnished with a copy of this deposition as soon as it is transcribed, Michael?

MR. COLE: Yes. What we have done in the past is where people have agreed to be deposed by telephone, and therefore they were not able to come to the Senate or their counsel was not able to come to the Senate and review the deposition, we have provided them a copy of the transcript prior to any appearance at a public hearing so that they have an

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opportunity to review it prior to that time.

MR. CEARLEY: And we would be afforded that opportunity?

MR. COLE: Yes.

MR. CEARLEY: Okay.

MR. O'CALLAGHAN: Okay. The stenographer is preparing a record of questions and answers. And this deposition will be treated as committee confidential until the commencement of the hearings.

Ms. Hernreich, you may be represented by counsel. Are you represented by counsel today?

THE WITNESS: Yes, I am.

MR. O'CALLAGHAN: Could counsel please identify yourself by your name and the name of your firm.

MR. CEARLEY: Robert Cearley, Cearley Law Firm, Little Rock, Arkansas.

MR. O'CALLAGHAN: Objections to the form of the question will be noted on the record. Counsel may object on grounds of privilege or relevance. And the Committee Chairman may rule on objections or where the witness refuses to answer a question.

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MR. CEARLEY: Let me say for the record here that we have discussed the matter off the record involving the presentation of documents. Because this is a telephone deposition, and all of us are at different locations, and because of the confidentiality requirements attached to the documents that you are interested in, Ms. Hernreich does not have copies of any documents before her that you may be interested in questioning her about.

If that presents a problem of any sort, I am not going to hesitate to raise that. And I do appreciate this accommodation to us in allowing us to do this by telephone, but it has some problems inherent in the procedure. So if that becomes a problem, I'll yell.

MR. O'CALLAGHAN: Okay, and we'll try to deal with that as the issues arise.

EXAMINATION

BY MR. O'CALLAGHAN:

Q Ms. Hernreich, could you state and spell your full name for the record.

A Nancy Hernreich, H-e-r-n-r-e-i-c-h.

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Q Have you spoken with anyone, other than your counsel, prior to this deposition with regard to the deposition?

A Yes, I have.

Q Who have you spoken with?

A I spoke with Jane Sherburne --

MR. COLE: Ms. Hernreich, we have to pause for a moment. The court reporter is having difficulty hearing you. Hold on while we move our speakerphone a bit.

(Pause.)

BY MR. O'CALLAGHAN:

Q You just stated you spoke with Jane Sherburne. Could you repeat what you said after that with regard to who else you spoke to about the deposition.

A Yes, I said I talked to -- I notified two members of my staff, Betty Curry and Rebecca Cameron, so that I would not be interrupted.

Q What was the substance of your conversation with Ms. Sherburne?

A Basically regarding what the discussions

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would be. She is the first person that told me that this would be coming. And then I spoke with her basically for guidance in case there were any White House documents or White House discussions and she is legal counsel, White House legal counsel, part of the White House counsel's office. And I spoke with her regarding things in case there were any things related to the White House.

Q Did you review any documents in preparation for the deposition?

A No.

Q How extended were your discussions with Ms. Sherburne? How long did you talk to her?

A About two minutes.

MR. COLE: So you did not discuss with Ms. Sherburne the substance of any testimony you were going to give here today, Ms. Hernreich?

THE WITNESS: That's correct.

MR. COLE: Thank you.

BY MR. O'CALLAGHAN:

Q Did you have discussions with anyone else with regard to deposition?

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A Not that I recall.

Q What's your current business address or work address?

A My business address is the White House, West Wing, Washington, D.C. 20502.

Q What's your present position?

A Deputy Assistant to the President, and Director of Oval Office Operations.

Q And how long have you been in that position?

A Well, I have worked at the White House as Deputy Assistant to the President since January 20, 1993. My title changed, and although basically my responsibilities remain the same, but my title changed approximately September of '94. And the first title was Deputy Assistant to the President, and -- Deputy Assistant to the President for appointments and scheduling.

Q Ms. Hernreich, did you attend college?

A Yes, I did.

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Q Where did you attend college?
A Webster College, St. Louis, Missouri.
Q What year did you graduate?
A 1968.
Q Could you give me a brief description of what your employment history has been since you graduated from college.
A Since I graduated from college, I first taught Head Start and then I did school social work, and then I changed locations. I ran campaigns, most of which I was not paid to do. Most of that was volunteer work. I was paid periodically for the campaigns, and then --
Q I'm sorry, and where was that?
A Pardon me?
Q Where was that?
A It was in Fort Smith, Arkansas.
Q Were those local elections, state elections?
A Yes, the ones I was paid for. The only one I can recall getting paid for was the state senate race in Fort Smith.

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Q What was the time period for that?
A When I got paid for this one, probably in about '81, somewhere in that range.
Q Okay, please continue, sorry.
A Yes, I also was paid, just primarily for expenses, for running a March of Dimes telethon. And then I became -- started doing scheduling for Governor Clinton in 1985; and then moved in transition in December of '92, and moved up here in January of 1993.
Q You said you began scheduling for Governor Clinton in 1985; is that right?
A That's correct.
Q Was that the first time you had done work for him?
A Paid employment, yes.
Q How about not paid?
A I had done -- I had run campaigns locally for him, from I think 1980 on, until '85.
Q When you say ran campaigns, were you the campaign manager? What was your title?
A It was called campaign coordinator. And at

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some point, it was -- in '80 I just ran the whole thing, in Sebastian County. Henry Oliver was the campaign chairman in the county and I was the campaign coordinator.

Q So you did coordination work in specific districts or counties, or did you do overall coordination?

A For the county which I lived, which is Sebastian County, for that county.

Q How about other campaigns?

A Well, they were -- just in that campaign. I had done some state Democratic work -- not work, but on state Democratic committees.

MR. COLE: We couldn't hear the last part.

THE WITNESS: That's what I was trying to distinguish between when I said that.

BY MR. O'CALLAGHAN:

Q How did you first come to know Governor Clinton?

A How did I first come to know him?

Q Correct.

A I met him in about 1976 when he was working

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on a committee with my ex-husband, on -- sort of an affirmative action, getting people involved to go to the Democratic National Convention.

MR. COLE: Was that when the governor was a professor at the University of Arkansas Law School, or was he Attorney General then?

THE WITNESS: He was a professor then.

MR. COLE: Thank you.

BY MR. O'CALLAGHAN:

Q How did you come to your position doing scheduling for him in 1985?

A I was approached by Carol Rasco who was -- worked on social -- health and human services, about -- she was changing positions and moving into a deputy chief of staff position. And she had approached me about taking her job, and I had interviewed for that.

She had been appointed by the governor to be on a committee that looked at restructuring the health and human services department in Arkansas, and I got to know her there. She approached me about taking over her job. They then called me and asked

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me if instead I would do the scheduling.
Q Do you recall what month you began that job?
A Yes, in September of 1985.
Q And how long did you do scheduling for the governor?
A I did it until -- basically in one fashion or another, until 19 -- till I came up here really. And I -- in some form or fashion I do it moderately, but I don't do -- I am not basically in charge of it, and I quit being in charge of the entire schedule in about November of 1991.
I did the gubernatorial scheduling as long as he was governor, but I did not do the campaign scheduling.
Q Who took over for you?
A Well, that's -- it was sort of a -- again, I didn't do the -- I always did the gubernatorial scheduling, but the person who did the campaign scheduling, they were different people. And you couldn't really say someone completely took over. Somebody had taken over that portion of it. I did it

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until they were able to hire somebody for the position, and I had taken annual leave to do that and had gone to do it -- I did it for about a week or so until they were able to hire someone who could do the campaign scheduling.
Q Did you have any responsibilities in addition to your scheduling duties?
A Now?
Q No, during -- between 1985 and 1991.
A In 1991 -- at the end of '91 I had different duties, and -- but primarily they were all scheduling.
Q What were the additional duties that you took on in '91?
A Well, I moved my office to the governor's mansion and I ended up doing more things related to -- I had always been his gatekeeper. And I moved there to be the gatekeeper more for the phone calls when he was in town after he was campaigning, and for the visitors and for the paper, and the things that would go in and out of there.
And that I assumed, you know, almost by

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accident because there was no one else there really to do it at that time, at the governor's mansion, so --

Q Before you moved to the governor's mansion, where were you located?

A The governor's office in the state capitol.

Q Where was that office in relation to his actual physical office?

A That office was about two doors away from his office, down the hallway.

Q What were the offices between your office and the governor's office?

A Directly on my side of the hall, the office next to his was his secretary.

Q And who was that?

A Linda Dixon.

Q Okay.

A And across the hall, and before my doorway was the chief of staff's office.

Q And who was that?

A Well, it changed during the course of the

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time that I did scheduling.

Q How many times did it change?

A My recollection is that it changed -- how many times did it change or how many different people?

Q How many different people.

A There were four different people, possibly five. The last configuration was a little bit different when there were three in one-- kind of three chiefs of staff.

Q What were their names?

A Which ones?

Q The different people who held the position.

A Betsey Wright, Henry Oliver, Jim Fletcher.

Q What was the third one?

A Jim Fletcher.

Q Anyone else?

A Did you get Henry Oliver?

Q Yes.

A And at the end, it was a triumvirate. First, there was a triumvirate, then there were two,

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of Bill Bowen and Carol Rasco and Gloria Cabe, and then Gloria Cabe left the governor's office, and then it was just Carol Rasco and Bill Bowen.

Q Did you receive visitors for the governor when they came to visit?

A Yes, I did.

Q Did you receive every visitor that came to see him at the office?

A Certainly most of them. I don't know -- saying every visitor, I don't think I can say I saw or received every visitor, no, because I wasn't there, you know, 100 percent of the time, but certainly most of them.

Q Generally, you would receive visitors who had appointments?

A Yes.

Q Did the governor have many people who came to see him without appointments?

A He did. Especially during legislative sessions.

Q Would you receive those people, as well?

A Yes, I would.

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Q During the time that you were in the governor's office, did you have occasion to meet a Jim McDougal?

A I'm sorry, say that again.

Q During the time you were working in the governor's office, did you have occasion to meet Mr. Jim McDougal?

A During the time I worked in the governor's office, did I have the occasion to meet Jim McDougal?

Q Correct.

A No, not under those circumstances.

Q Did you meet him under any circumstances?

A What do you mean by "meet"?

Q Well, have contact with him, you know, in person.

A Not that I recall. But I could have, I just don't recall it, frankly.

Q So you don't recall whether or not you ever received him to go see the governor?

A That's correct. I do not recall that.

Q Did you have any contact with him during

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that time period?
A Frankly, I don't recall the contact with Jim McDougal. Although I probably, you know, may have had a phone call or two from him, I frankly do not recall it, if that's what you are asking.
Q Well, you recall that it happened; is that right?
A Well, that I actually took a call from Jim McDougal?
Q Correct, or had any conversations or contact with him.
A Let me just think about it because I do not recall having conversations with Jim McDougal, frankly.
Q Take your time.
A I am aware that Jim McDougal had, you know, probably had a modified contact with the President or that there is a record of that, or with the governor. But that -- that I actually had contact with him, I don't -- with Jim McDougal, I don't recall having conversations with Jim McDougal.
MR. COLE: Ms. Hernreich, we are not trying

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to trick you or quiz you or make this a memory test.
THE WITNESS: I am trying to be accurate. Honestly, the very bottom line is I don't really recall talking to Jim McDougal. If you want to know something else, then ask it. If you are asking me if I ever talked to Jim McDougal, I do not remember talking to Jim McDougal.
BY MR. O'CALLAGHAN:
Q Okay. Did you ever see him at the governor's offices?
A I do not remember ever seeing him at the governor's office.
Q Did you ever see him at the mansion?
A No, I did not see him at the governor's mansion.
Q How about -- similar question, any conversation with Susan McDougal during that time period?
A Yes, I do recall Susan.
Q And what do you recall about that?
A Just that she had called, and I think about meeting or seeing the President or the governor at

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the time, but I do recall talking to Susan McDougal.
Q Do you recall when that occurred?
A No, I don't. I don't recall when it was. I would imagine that was relatively early after I began work there, you know, within the first year.
Q Okay. And did she actually meet with the governor?
A I don't remember if she did.
Q Do you remember if you had --
A I don't recall that she did.
Q Do you remember if you ever saw her at the governor's offices?
A Susan? I really don't remember.
Q Are you aware of the substance of any conversations that the governor had with Susan McDougal?
A No, I am not aware of the substance of any conversations that the governor had with Susan McDougal.
Q How about with regard to written correspondence, were you in receipt of any written correspondence from Susan McDougal?

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A Not that I can remember.
Q How about Jim McDougal?
A Not that I can remember.
Q Were you ever asked to schedule meetings with the governor and Mr. McDougal outside of the governor's office?
A Outside, not that I remember. That's another one that I don't remember doing, scheduling a meeting with Mr. McDougal, and -- outside of the governor's office.
Q Just to make it easier, do you recall scheduling any meetings with Mr. McDougal and the governor?
A I don't remember it, no.
Q How about Susan McDougal, do you recall scheduling meetings between the governor and Susan McDougal?
A No, I don't remember.
Q Did you do any scheduling for Mrs. Clinton?
A No, I did not.
Q Who did that?
A Only as it related to -- let me back that

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up. If it was the two of them having to go to one event together, then I would have done something that related to her, too. But I did not do scheduling for her.

Q Did you do any scheduling for both of them where they met with either one of the McDougals?

A Not that I recall.

Q Are you familiar with anyone by the name of R.D. Randolph?

A Well, I am familiar with the name, yes.

Q And how are you familiar with the name?

A Well, because I have been shown documents by the FBI and by, you know, the Independent Counsel's office, of a memo that I had written that had his name on it.

Q Independent of other people showing you that memo, do you have independent recollection of who Mr. Randolph is?

A Not really. Let me just tell you that -- and I have said this to the others, too -- if he walked in the room I am not sure I could pick him out, frankly. But I have a general knowledge of who

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he is, you know, but I certainly did not have much contact with him. And I -- again, it is not -- knowing the name, I have a vague recollection of who he is. That's about it.

Q And what's your general knowledge of who he is and what he does?

A Well, I don't know who he is, frankly, or what he does. Since I have seen this memo, I now know kind of what he did at -- I don't know much of what he did. I do know he came into the governor's office one time, and I think the memo indicates that he had asked for a call, something to that effect.

But I don't have any idea what the man does for a living. I have the sense that he is some sort of a lobbyist, but he may not be. I have no idea really what he does.

Q You said he came to the office and asked for a call. What are you referring to?

A Well, I don't recall this necessarily. I just know that I have been shown a memo with his name on it that indicates that.

Q Okay. This might be a good time for me to

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identify a document which is probably similar -- probably the same one you are referring to. I am going to describe it in detail because we are doing this over the telephone, and if you have any questions about what I have read or if I am going too fast, please let me know. And then I will ask you some questions about what I have read to you and just answer to the best of your ability.

A Okay.

Q What I have before me is a one-page document which bears the Bates stamps that we have been provided, DKSN 018008. It appears to be a memo with a "to" section on the top of masthead "to: BC"; and to the right of that is a date, handwritten, 4/14. The line below that reads "from:" and the initials appearing after that are "NH."

A Let me stop you for a second. I thought you had indicated that the NH are my initials and that you said earlier that if they were documents that I produced, that -- if they were not produced by me, you couldn't fax them to me, but that one was.

MR. COLE: When we used "produce," it's a

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lawyer's term of art meaning the lawyer who provided document to the Special Committee, that is who produced it. And in this case the document, I don't mind telling you, was produced by Williams & Connolly, David Kendall, and so that's what we meant when we said you didn't produce it. We weren't indicating that you didn't prepare the document.

THE WITNESS: I got it. Okay.

BY MR. O'CALLAGHAN:

Q Okay. I will continue describing it to you.

A Okay.

Q Then there is a "re:" line which reads "R.D. Randolph's visit," and then there is a box which includes a number of different directions, which included "immediate action, draft reply for governor," and a number of other directions which none of the boxes have been checked. And then the next section reads, heading is "remarks." And I will read this slowly and let me know if you want me to stop at any time, okay?

A Okay.

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Q It reads "Mr. Randolph dropped by to see you this morning to talk to you about the water bill you vetoed. He said that he talked to you on Sunday morning. He wants to know if the veto is going to stand. He would," and I believe it is -- there is a typographical error, it reads o-w-u-l-d, but I believe the logical reading is "he would like" -- once again, typographical error, l-i-i-k-e -- "to call Jim Guy Tucker about this. He said that he has a difficult time getting an answer from you (he mentioned a meeting between you, Tucker and Jim McDougal a couple of years ago, which involved $33,000. This was pretty cryptic). He seemed angry. Someone, I think he prefers you, needs to call Tucker."

Then there are some handwritten notes with an arrow, and some script which looks like u-g-h underlined, or n-g-h underlined, I can't see which. And one says "cc SB 4/15," and then there is another handwritten notation which says "see if Sam will call him."

Are you familiar with the document that I

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just described to you?

A It sounds like a document that I have been shown by the FBI and by others.

MR. COLE: Ms. Hernreich, this is Lance Cole. And this is difficult because we can't show you the documents, but of all the parts of the document Mr. O'Callaghan read to you, there is one portion that is has been written that follows the typewritten portion and does appear to be an arrow. And then there are some records or letters, maybe one word underlined in a very difficult to read handwriting that I am guessing may be the President's, but that's just a guess.

But I am wondering, notwithstanding the fact that you don't have this document in front of you, in view of the fact that you have been shown it before, by the Independent Counsel and perhaps others, whether you have any recollection as to what the President's note, if it is his note, says.

THE WITNESS: The document I have been shown before, it said "ugh."

MR. COLE: "Ugh," is that what it says?

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THE WITNESS: That's correct.
BY MR. O'CALLAGHAN:
Q Was that a notation he used often?
A No, he didn't use it often.
Q Can you explain why you think it says "ugh"?
A Why do I think?
Q Is it your just reading of his writing?
A Pardon me?
Q Was it just your reading of his writing or do you have a reason to believe it says "ugh"?
A It is a reading of his handwriting.
Q Do you recall writing a message to the governor with regard to Mr. Randolph visiting?
A Very vague. But, I have a recollection, especially now having seen that a couple of times and having read about it, I think, in a newspaper article, so --
Q Is it your understanding that Mr. Randolph came by to see the governor on April 14, 1987?
A I don't know if that's the date he came or not.

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Q This document is dated 4/14?
A I would assume so, but I don't -- you know, that's sort of -- that's all I have that indicates it would have been when he came. I don't know.
Q There is a check mark on the first line of the document, after the "to," and then the "BC" section.
A You said 1987?
Q Yes. Is that the right year?
A I don't know.
Q Okay. The top part of the document says "to: BC" and there is a check mark on the top line.
Do you know what that refers to? It is a handwritten check mark.
A Refers to Bill Clinton.
Q Would that have been a check mark he made?
A Probably, yes. The memo I have seen before, it did look like his check mark.
Q Is that how he indicated whether he had received something?
A Yes.
Q Do you have any recollection as to whether

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Randolph told you the substance of a discussion he might have had with the governor on the Sunday that's referred to in this note?

A I have no recollection that he told me anything. And since he said that it was -- the whole thing -- the later part I said it was pretty cryptic, but I have no recollection he told me about it, anything other than what I wrote there, frankly.

Q Just so we are clear, this is a note you wrote?

A Pardon me?

Q I just want to make sure we are clear this is a note that you wrote.

A I believe so, since it says "NH" yes.

Q That's how you identified yourself in memos?

A Yes.

Q Were there any other NHs in the governor's office?

A I don't think so.

Q There is a section of this note, a parenthetical, which reads "he mentioned a meeting

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between you, Tucker and Jim McDougal a couple of years ago which involved $33,000,"; then, "this was pretty cryptic."

Other than what's written on the note here, do you have any recollection of what he was referring to in that conversation?

A No, I don't.

Q Any mention of a fundraiser mentioned in that conversation?

A Not that I recall.

Q Any mention of Madison Guaranty in that conversation?

A Not that I recall.

Q Then it says "he seemed angry." Do you recall what he was angry about?

A No, I don't.

Q Then it reads "someone," and it says "I think he prefers you, needs to call Tucker."

Do you have any knowledge of whether anyone called Tucker in response to this note?

A I do now because I have seen follow-up memos to indicate that somebody had called or

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somebody -- I don't know if it was Tucker, but they called somebody.
Q Who is Tucker?
A Jim Guy Tucker.
Q And who did you become aware called him?
A Well, Sam Bratton called somebody and that was another memo you were discussing at the beginning that indicates that, but -- so I don't necessarily recall that that occurred, but I have just seen that memo, that's what I gleaned from that. I think that's what Sam indicated that he called somebody. I don't even recall who it says he called. Whether he called Randolph or Tucker, I don't remember.
Q Did he call him about a water bill that the governor had vetoed?
A What did you ask me?
Q Whether the phone call was with regard to a water bill that the governor vetoed.
A I think so, but without this memo, without you rereading that memo to me that Sam wrote back and I was copied on, I wouldn't -- I couldn't guarantee it. But I think that's -- I think that's what it was

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about.
Q Do you know if the governor ever called Mr. Tucker about water legislation -- water bill legislation?
A No, I do not know.
Q Are you familiar with anyone named Diane who was working in the governor's office at the time?
A At that time?
Q Yes.
A Yes.
Q Who was that?
A She was my assistant.
Q What was her last name?
A Drimmett.
Q Spell that.
A D-r-i-m-m-e-t-t, I believe.
Q Did she assist you in your scheduling?
A Pardon me?
Q Did she assist you in scheduling?
A Yes, she did.
Q Where was her office located?
A Her office was in the same office as mine;

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we shared an office.
Q Did she also receive visitors?
A Only if I wasn't there. She was primarily a secretary.
Q Do you know where Ms. Drimmett is working now, if she is?
A I think she is working for the Arkansas State Police.
Q Do you know where she lives?
A She lives in Little Rock.
Q Little Rock. Do you have any knowledge of whether State Representative Walker ever called for an appointment with the governor at this time?
A Without knowing that, I have seen the memo that indicates that I think he stopped by -- no, or I think -- I don't remember if he called or stopped by. I have seen a memo that indicates that he followed up on that at some point, that request by Randolph, I believe. Again, without seeing it, you know, I certainly don't remember independently of looking at those memos, I will tell you.
Q Do you have an independent recollection

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whether he came by the offices during that time period?
A I can't remember whether he came by. I don't have any recollection of that. I don't remember from the memo whether he came by or he called.
Q Okay. Just generally, do you know if Representative Walker came by to see the governor in April or May of 1987?
A I don't have a personal recollection of it, no. But again, there was a memo that indicates that either he came by or called, or something, sometime.
Q Other than the visit by Mr. Randolph that's identified in the document I just described to you, the 4/14 message to the governor, did Mr. Randolph come by the office at any other time during April through June of 1987?
A Gosh, I don't have the foggiest idea.
Q How about Jim Guy Tucker, was he in the office during that time period?
A I don't remember that he was.
Q Did he ever stop by?

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A No. He wouldn't --
Q Excuse me?
A I said no, it would not be something he would do.
Q Why is that?
A I don't know. It just isn't something I ever recall him doing.
Q Did you ever talk to Sam Bratton about Mr. Randolph's stopping by?
A I assume I did from looking at those memos. I may not have, but I may have just sent him copies of memos rather than talking to him, but I assume that I probably did.
Q Do you recall any contents of conversations you might have had with him on the subject?
A No, I don't.
Q Are you familiar with an entity that was called Castle Sewer & Water?
A No.
Q Have you ever heard that before?
A I can't remember if it is in that memo Sam wrote or not, but I don't -- Castle Sewer & Water, I

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am not familiar with that. There may have been a memo that had something in there, but I can't guarantee that. I am not familiar with it.
MR. CEARLEY: Are you saying Capital or Castle?
MR. O'CALLAGHAN: I was about to clarify, I said Castle. Castle, like a medieval castle.
THE WITNESS: It still doesn't matter.
I believe, though, that since someone has also asked me, I think in that related memo that Sam wrote or something about Castle Grand -- then after a while you get -- you don't know -- one doesn't know if one has read in a memo that the FBI has given or read it -- something in a newspaper about it or, you know, but independent of recent, you know, reminders, I certainly have no knowledge of Castle Sewer & Water.
MR. O'CALLAGHAN: Okay.
MR. COLE: Bear with us a moment. Mr. O'Callaghan is looking through his documents here.
MR. O'CALLAGHAN: Excuse me. Thanks.

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(Pause.)
BY MR. O'CALLAGHAN:
Q I have one or two more questions on this issue, Ms. Hernreich with regard to the document I described to you, did you have any follow-up discussions with the governor with regard to Mr. Randolph's visit?
A I certainly don't recall it. Which document were you talking about? The document that Diane wrote?
Q No, the document that you wrote.
A Gosh, yes, I have absolutely no idea if I had any follow-up discussions with the governor about it.
Q Did you discuss Mr. Randolph's visit with anyone -- you said you might have talked about it to Sam Bratton, but anyone other than that that you might have talked to about the visit?
A I probably discussed it with Betsey Wright.
Q What would your discussion with her have been?
A I don't recall. Oh, would have been?

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Q Yes.
A Well, I think having looked at that memo and identified already that I think she is the one who wrote on there, at any rate, for me to have Sam call. On that first memo it said something to the effect of have Sam call, something like that.
Q She is the "see if Sam will call him" notation?
A Yes, that's Betsey Wright's handwriting. I assumed, then, that I either talked to her or I may have just had -- I may have just taken the note -- I may have just taken the note and not had any conversation with her about it.
Q Is there a possibility the governor could have given her the note also?
A What note?
Q The note -- the note you wrote to the governor, excuse me.
A I don't know what you are asking. The governor gave her the note?
Q Excuse me, the memorandum that has her handwriting which says "see if Sam will call him."

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A Well, all documents, all paper to the governor went through Betsey Wright, and all paper coming from the governor went through Betsey Wright.
Q So her role was as a gatekeeper of the documents; right?
A Correct. At least all of my paper went through her.
Q Did you have any discussion with the governor with regard to the parenthetical sentence regarding the meeting between Tucker, Jim McDougal and the governor a couple of years ago which involved $33,000?
A Could you repeat that? I missed the very first part of what you asked me.
Q Sure. Whether you had any discussions with the governor with regard to the parenthetical sentence which identifies a meeting between the governor, Tucker and Jim McDougal a couple of years ago which involved $33,000?
A No, I do not recall having any discussions with the governor about that.
Q Did you have any discussions with anybody

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about that?
A Not that I recall.
Q Do you recall if you had a discussion with Betsey Wright about it?
A I don't recall having a discussion with Betsey Wright.
Q And if I follow up with a question with a name, it is usually just meant to help refresh your recollection.
A Pardon me?
Q If I follow up a question that you said you don't have a recollection of with a specific name, I am only do it to try to help refresh your recollection.
A Okay.
Q Okay?
A Sure.
Q Ms. Hernreich, do you know who Dan Lasater is?
A Yes, more or less. Frankly, I am not sure I have ever met him, but I certainly know his name.
Q And how do you know his name?

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A Well, his name was in the paper for a long time, and so -- you know, related to a drug trial.
Q During the time that you were scheduling and receiving people for the governor in the governor's office, did you ever schedule any meetings between the governor and Mr. Lasater?
A No, I never scheduled, that I recall, any meetings between the governor and Mr. Lasater.
Q How about schedule any meetings at Lasater & Company?
A At Lasater & Company?
Q Correct?
A Not that I recall.
Q Any meetings involving the governor and anyone from Lasater & Company?
A Not that I recall.
Q Did you ever schedule any meetings with the governor and Patsy Thomasson during that time period?
A Not that I recall. Patsy was, for a long time, was on the Highway Commission, and she may have attended some function or -- with the Highway Commission. But a flat, straight, one-on-one meeting

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with Patsy Thomasson and the governor, I certainly don't remember.
Q You said you began scheduling September of 1985; is that right?
A Yes.
Q Okay, thanks.
Did you schedule any meetings with the governor and anyone by the name of Michael Drake?
A Not that I recall.
Q Did you ever receive any visitors for the governor from Lasater & Company?
A Not that I recall.
Q So you have no recollection whether Mr. Lasater ever visited the governor at his office?
A I don't have -- to my recollection, I don't recall ever meeting Mr. Lasater, so I don't recall that I ever received him as a visitor, as a visitor to the President.
Q But if he had come to the office, he would have -- he would have been brought in by you, if he had been by?
A If I was there; if I wasn't there, he would

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not have been.
Q If you weren't there, Diane would have done it?
A Could have, or it could have been Betsey Wright, or -- or I guess then, in a very remote sense, it could have been Linda Dixon, sometimes. Very seldom, but every once in a while, she would have people visit her personally. And if the governor -- if they were back in her office and she saw him, then he would stop by and say hi there.
Q Did you do scheduling for anyone other than the governor?
A No. During that time?
Q Yes.
A No.
Q Did you schedule any meetings between the governor and anyone who was working with the Arkansas Development Finance Authority or Arkansas Housing Development Agency?
A I am sure I did. You know, I can't say I am sure, I have no recollection of it. But Bob Nash was a member of our staff for a long time, and so I

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would assume that, at some point or another, I scheduled some sort of meeting between him and the President, because it was an agency of the government. I mean, at least that's my recollection, that it was a state agency.
Q Are you familiar with the name Paul Young?
A Paul Young?
Q Yes.
A No, I am not familiar with that.
Q How about Steven Claiborne?
A No.
Q Robert Snyder, or Bob Snyder?
A I am not familiar with it.
Q How about Bobby Allison?
A I know Bobby Allison.
Q How do you know Bobby Allison?
A Well, I have known him for years. I have known him for years. He was a friend of my ex-husband.
Q Do you know if, while you were at the governor's mansion, whether the governor or Mrs. Clinton flew on any airplanes owned by Lasater &

Company or Dan Lasater?
A No, I don't know of him flying on any planes provided by Dan Lasater, certainly when I did the scheduling.
Q If they were flying on a plane, would you normally note that on the schedule?
A Yes, I would.
MR. O'CALLAGHAN: I am going to move on to another subject area. Actually, could you hold for a moment. I think we have a pickup on the transcription here.
THE WITNESS: Okay.
(Discussion off the record.)
MR. COLE: We are entering a new subject area.
BY MR. O'CALLAGHAN:
Q I would like to ask you some questions about your activities since you have joined the staff of the White House.
A Okay, I will do my best to answer them, but I think we may be moving into an area that might be possibly privileged; then I may not feel comfortable

answering those without some specific guidance from the White House.
MR. COLE: Where a question comes up where you want to seek guidance from the White House, we will certainly accommodate that, but I suspect they are questions that won't pose difficulties to you, so why don't we see if we can work through them?
THE WITNESS: Okay.
BY MR. O'CALLAGHAN:
Q The first question is as to background. What type of work you do, what do your responsibilities entail in your present position?
A My duties are pretty wide-ranging, but primarily I operate as a gatekeeper for the President concerning all visitors and paper. I also officially run his office, and -- so we are basically assistants to the President, executive assistants.
Q When you say "run his office," could you describe that a little more fully?
A Basically supervise people, for instance, his secretary and receptionist, the President's aide, people that handle his personal correspondence. So

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basically when I say "run his office," I supervise those people who handle -- you know, who -- or assist him in more of a personal way like that.

Q So you pretty much function as an office manager?

A Yes, basically for the immediate office of the President's staff.

Q And you said you were gatekeeper for visitors and paper. Could you describe more fully what you mean by gatekeeper of all the paper?

A I mean, if people want to get paper to him it primarily goes through the staff secretary, but if the -- the staff secretary would bring it to me, and then I would get it to the President. And if there is other particular documents that, you know, people want to get to him, then it would come through me.

I guess certainly there are circumstances where people could hand it to the President, but if it is handled through the office, then it will come here first because they would not have access to go in there and hand it to him.

Q If somebody wants to give the President a

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document, it's got to go through you first; is that right?

A Probably not a hundred percent of the time, but it should, you know. If people are in there visiting him on something else and they hand him something, then obviously I wouldn't know about it, but generally, yes.

Q I would like to ask you some specific questions as to your -- the best you can characterize your daily movements at work, where generally you move in and out of the different areas of the White House, where your work takes you.

A Okay.

Q Generally, where is your main work area?

A I have a small office off the secretary's office right outside the Oval Office.

Q What percentage of your time do you spend in your office?

A At least -- I would say at least 80 percent.

Q How about the other 20 percent, where do you normally --

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A I would be in meetings and in the Roosevelt Room, something like that. Most, physically, of my time is spent here.
Q Other than the Roosevelt Room, do you have occasion to go to other parts of the White House for your job?
A Rarely, but I do. Yes, I have. I can move around, but I don't. Frankly, if you are the gatekeeper and the President is here, then I need to be here, so I normally stay in my office.
Q You've got to be by the gate; right?
A Yes.
Q Do you have any occasion to go into the residential section of the White House?
A Very rarely, but I do.
Q Over the course of the time period you have been in your new position, as Director of Oval Office Operations -- I think you said you started doing that in September of 1994 -- can you identify how many times you have been in the residential section of the White House?
A No. I would say maybe -- if it -- if it

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entailed -- let me just expound a little bit.
Q Sure.
A When I have done the same job, the title has been different, but I have done the same job since January of 1993. So let's clarify that; it is the same job.
Q Okay.
A Then number two, the President will periodically have meetings in the White House residential section. Now, I don't know if you mean by the residence anything that's on all four or five floors over there, including the ground floor where he has meetings, for instance, in the bathroom or in the library, or would I have occasion to go to the usher's office or something else? What do you mean by the residence?
Q I can narrow it down to the second and third floor.
A Of the house?
Q Correct.
A Oh, maybe once every two weeks, maybe once a week, maybe once every two weeks.

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Q What will you generally be doing when you go over there?
A I would generally be moving the President in or out of a meeting.
Q Keeping him on schedule?
A Yes.
Q Other than moving him in and out of the meetings on the second and third floor, did you have any other reason to go up there?
A Hardly ever. Let me think about that. I mean --
Q Sure.
A -- if I would have any reason to go to the second or the third floor. Social activities, sometimes we are invited up to the solarium to see somebody or to see -- usually at the times -- I have been up there several times and it is usually related to something social.

The one time that I can recall I have been and looked at the -- some gifts that were kept up there, but -- and I periodically have to go look for something for the President, usually on the second

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floor if he left it over there. And, you know, if he left a paper, his papers or a book or something he needs, then I will go there.

I would also -- if we had a meeting in the residence, I would take guests in or out of meetings with him. And, you know, I possibly may meet house guests or something over there. Usually guests would be staying on the second floor; normally I would go to the second floor if I had to see them about something. And there have been a couple of social occasions on the second floor, too, where people have been invited up after an event or something like that.

Q Okay. Do you ever have occasion to -- when you have to move the President along for meetings, do you ever have to get him out of the exercise room on the third floor?
A No, I never have. I may have called up there to move him, but I have never been in there.
Q Okay. How much time would you say he spends there typically?
A In the exercise room?

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Q Yes.
A I don't know. I don't know about that.
Q I would like to direct your attention to a more specific time period, specifically July of 1995 through -- let's say, July 20th of 1995 through August 10 of 1995. And the first general question is, do you have any recollection of going up to the second or third floor during that time period?
A Second or third floor, July 20 through August 10. To the second or third floor?
Q Correct.
A I would have to look at a calendar and see if I did, see if there was a meeting over there. I would have to look at a calendar and see. I don't personally have any specific recollection, but I would have to look it up.
Q I've got some documents here which may assist you in helping you recollect. Specifically, let me first ask you if you remember on July 21, 1995 whether you went up to the second or third floor?
A I don't recall. Again, I would have to look at a calendar and see --

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Q First, I have an official -- I have a one-page document which is an official Secret Service log of movements in the White House, dated Friday, July 21, 1995.

And for the record, it reads "F1 movement log"; and then, handwritten, it says "Friday, 7/21/95." And then it has a chart which, on the left-hand side, has a listing of names; first says "Friday," and then the first two boxes on that say "the President," and then "the First Lady" in type print. Then there is a series of handwritten notes which identify names of people who have moved up and down within the residency. And then the columns to the right of that, there are a series of them that read up, down, up, down, up, down in succession.

And some of those have times listed for when people listed in the list either have gone up or down in the residency. And all the way to the right-hand side of the chart is a column dated -- which states "location." And it lists location for a number of the different people, who were moving up and -- up and down the White House, or in and around

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the White House on that day.
Approximately 13 rows down on the column that lists individuals, your name appears, it says "Nancy Hernreich" in handwritten notes, "plus five"?
A What was the last thing you said?
Q It says "Nancy Hernreich." It has a notation that says "plus five"?
A Okay.
Q And then in the "up" column, it says 12:30, the "down" column, it says 14:09. And my first question is, after my description of the document to you and the notation that's made on the document which references you, does that help refresh your recollection about whether on Friday July 21, 1995, whether or not you went up to the second or third floor of the residence?
A No. What do you think -- let me ask you something because you may know more about the document than I do. I am trying to -- does "plus five" mean five people went with me?
MR. COLE: Based on other logs we have reviewed, my guess is that perhaps you escorted five

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people up at that time.
THE WITNESS: 12:30.
MR. COLE: Correct, on Friday, July 21. And perhaps to further refresh your recollection, the logs indicate that at that time various members of the Rodham family were guests. Shows Tony Rodham Nicole Rodham, Mrs. Rodham and two people named Farrar --
THE WITNESS: Those are the President's --
MR. COLE: -- and Bensimmons. Those are the names listed if that helps to tie this to any particular event or meeting.
THE WITNESS: I do recall at some point having -- around that time of day, going up about that time, but I thought it was earlier in July, frankly, going up while Mrs. Clinton had lunch to discuss the President's birthday party with her. But I thought it was much earlier in July. My recollection, you know, end of June, first of July. 12:30 to 14:09.
MR. COLE: Did others go with you on the occasion you went up to discuss with Mrs. Clinton the

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surprise birthday party?
THE WITNESS: Pardon me? No, they were up there already. I thought they were already in there, so I didn't recall taking any of them up.
BY MR. O'CALLAGHAN:
Q When you went to discuss the birthday party, where did you go?
A To the kitchen.
Q Kitchen?
A On the second floor.
Q On the second floor?
A Yes.
Q How long did you meet with the First Lady?
A About that period of time. Maybe it was about an hour. Maybe an hour and a half. May have been just been 30 minutes, but with that -- generally I wouldn't spend that much time upstairs. I would go -- what I might -- it may have been something where I would have gone and taken people up and sat in the hall waiting to escort them back. There is a possibility I did that, but certainly I would just go take them and go back to my office. So the amount of

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time puzzles me.
Q There is also -- two names we forgot to mention on the log, there is a Carolyn Huber notation which has her going up at 10:14, then down 11:30, then up at 14:02. And I don't know if that helps refresh your recollection.
A No, it doesn't.
Q There is also Leon Panetta, 14:00 up and 14:09 down. Do you recall if you went downstairs with Mr. Panetta?
A Well, no, I didn't, but that's interesting. So he went up at 14:02, came down 14:09; he came down when I came down.
Q Correct. Excuse me?
A It must have been some sort of meeting that the President was involved in. And what I probably did is escort some people up and sit in the grand hall or the hall up there on the second floor and wait for them, to take them back down. But I would have to look at it, to figure out what it was.
Q I have another document here which might be helpful as well --

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A Okay.
Q -- which is a less formal entry and exit log for the White House, second and third floors, from the usher's office --
A Okay.
Q -- on July 21. It's a one-page document on White House stationery, and it is entitled "Friday, July 21." Then it has a series of times listed, 8:45, and it goes through, past -- appears to be the noon hour and toward the evening hour, 11:30. And on the bottom it lists house guests Hugh and Maria Rodham; Tony, Nicole, and Zachary Rodham and Mrs. Rodham, all listed on the third floor numbers.
Then there is a number of people listed next to the times, and some of which are the same as appear on the movement log which I just described to you, including Bensimmons, which is -- Bensimmons, excuse me. The Farrar name is there. 10:50, depart the White House, and then there is a number of notations that range from 12:25, 12:30 and 12:40 with the notation OTR to the left of that.
Do you know what that OTR refers to?

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A It means off the record.
Q And when is that notation made on the usher's log, if you know?
A It means, if something is off the record, it is a private meeting the President is having.
Q Who makes the determination whether OTR should appear on the log?
A Usually the President -- the person who schedules the meeting would ask them -- tell them it is an off-the-record meeting.
Q Okay. There is an OTR reference, it is 12:25 which reads "David Kendall plus one to the second floor." Do you recall seeing Mr. Kendall on the 21st of July?
A I don't recall seeing him, but I very well could have.
Q Okay. Did you escort him to the second floor of the White House, in July?
A I possibly could have.
Q Do you recall if you did?
A I don't recall, you know, because I didn't even know who was up there that day. But there have

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been times when I have escorted Mr. Kendall up, yes.
Q Did you ever escort him up to the third floor of the White House?
A To the third floor?
Q Correct?
A No, not that I recall.
Q Did you ever escort him up to the book room on the third floor?
A The second floor. President's office is on the second floor.
Q Do you know if you ever escorted him to the book room on the --
A I never escorted David Kendall to the book room on the third floor.
Q Right after the 12:25 entry, the Dave Kendall entry, another OTR entry which reads 12:30, and says "Abner Mikva and Nancy Hernreich to the second floor." Does that help refresh your recollection as to whether you went up to the second or third floor on the 21st of July?
A Definitely.
Q What is your recollection?

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A You want to know what that meeting is about?
MR. COLE: I think perhaps, since it is possible here that we all know these are attorneys for the President, both private and White House counsel's office, that first perhaps you just describe generally who participated at the meeting without getting into if you know what the subject of discussion was.
THE WITNESS: Thank you. I don't know the subject of discussion.
MR. COLE: So we won't have a problem there.
THE WITNESS: You are precisely right. I don't assume that -- that it was David Kendall and his assistant, and Abner Mikva; probably John if Jane Sherburne was there or not.
BY MR. O'CALLAGHAN:
Q Where did the meeting take place?
A Second floor of the residence. In the President's office called the Treaty Room. Or it is called the President's office.

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Q Did you stay for the meeting?
A No, I did not stay for the meeting. I probably stayed in the hall or out by the elevator and waited for them.
Q Just so I have the benefit, there is another entry directly after the entry with you and Mr. Mikva entering on 12:30. There is another OTR entry and it says "12:40 Nancy Hernreich down" --
A Okay.
Q -- which would be consistent with you going right down afterwards. But then there is inconsistency with the other movement log which has you going down 2:09, 14:09.
A I really don't recall what happened that day, but if I had to make a guess about it, I would say then, that I took them up, and then I -- that I left and then went back to escort them out when they got ready to leave. And -- there is a possibility, in some meetings I do wait up there, and, you know, either sit in the hallway or sit out by the elevator and escort them back down when they are finished.
But I had -- probably had a general time

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frame for that, and went back over when I saw that it was about time for the meeting to be over, and escorted them out.
Q Do you have a specific recollection of bringing Mr. Mikva up to that meeting?
A Not a specific recollection, no --
Q Do you recall --
A -- but I could have. I probably did. I just don't have a specific recollection on that day of taking Mr. Mikva up there, but I very well could have.
Q Did you bring Mr. Kendall up that day as well?
A I'm sure I did, yes.
Q Who else was part of that meeting?
A I would have to look at -- I don't know what I have to look at. I would have to ask people who might have notes of that particular meeting.
Q Would you have a record --
A I would imagine, I don't know if Jane Sherburne was there or not. I don't recall. David Kendall's assistant probably was there. Nicole or

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the other lawyer, Nicole Seligman, but I don't know that for sure.
Q Would the assistants have been listed in the log showing entries?
A Would who have been listed?
MR. COLE: The log shows David Kendall plus one to the second floor. And then it's your testimony correctly you are speculating that perhaps that entry referencing David Kendall plus one might reference Mr. Kendall and his colleague, Nicole Seligman; is that correct?
THE WITNESS: Yes.
BY MR. O'CALLAGHAN:
Q Did any of the people you escorted up to the second floor that day have any documents with them?
A I don't recall.
Q Do you recall if they had any boxes with them?
A I do not recall any of them having any boxes.
Q Do you recall if they had any folders with

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them?
A I don't recall. Can I put you on hold a minute and talk to my attorney about this?
MR. O'CALLAGHAN: Certainly. Off the record.
(Discussion off the record.)
MR. COLE: Back on the record.
Did you have anything you wanted to add to your prior answer about whether people were carrying files or boxes of documents, is where we left off?
THE WITNESS: I don't recall.
MR. COLE: Okay.
BY MR. O'CALLAGHAN:
Q Are you there still?
A Yes.
Q Great. I guess the other question -- in July of 1995, did you have any occasion to go up to the third floor?
A Not that I recall. At some point, I went to the solarium once to see Nicole Rodham's new baby. And I don't remember in the solarium whether that was in July or not, early June sometime. And I

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don't remember if this was the first trip they made to Washington after the baby was born. But at some point I went to the third floor of the solarium to see the baby.

Q Have you ever been to the book room up on the third floor?

A I'm not sure. I have been to a room where they keep gifts and maybe once or -- and so I may have been up there then.

Q Do you recall when you were up there?

A No. It's been -- it's been a good while. I am sure it's been well over a year.

Q You think it's been well over a year?

A Or even longer, yes.

Q Do you recall on what side of the -- what wing, what side of the building that room was in, the gift room?

A I sure don't.

Q Do you recall whether there were -- what rooms were adjoining that room?

A No, I don't.

Q What was the purpose of your visit to that

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room?

A Looking at some of the gifts stored there.

Q Who did you go up there with?

A Either -- probably Capricia.

Q Capricia Marshall?

A Yes, Capricia Marshall.

Q How much time did you spend up there?

A Probably five minutes.

Q Anyone else with you?

A I don't know. Maybe Betty Curry may have been, but it may have been just me. It is a very vague recollection. I may have been by myself or may have been, you know, with Capricia actually. I think maybe Betty was with us.

Q Was this soon after you first got to the White House, was it a period of time after that?

A I don't think it was soon after we got to the White House. It's probably been a year or so, at least. Probably either around Christmastime, maybe a year ago at Christmastime.

Q Do you remember being around at a time when there was Christmas decorations up?

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A No, but that would be a time we would be looking for gifts, wanting to know what the President could give people as gifts.
Q Have you ever been up to the exercise room on the third floor?
A No, I have not.
Q Have you spoken with anyone who told you that they were up on the third floor in and around the book room in July or August of 1995?
A Well, that told me they had been on the -- up there in July or August?
Q July through August of 1995, yes.
A I have not spoken with anyone who has told me that.
Q Have you heard anybody has been up in the book room during the period, July/August 1995?
A I have read it in the newspaper.
Q What did you read?
A That Carolyn Huber was up there, and I think in August of '95.
Q Have you heard from any other source that anyone else was up there?

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A No, I have not.
Q Have you heard from any other source that she was up there?
A No, I have not.
Q Excuse me if I have asked you this and this is a pretty basic question, but have you ever been up to the book room on the third floor?
A Well, I don't know. I think it is the same room where they keep the gifts.
Q You think it is the same room?
A I think so. I think that's what I read in the paper. But you know, I could have just made that up.
Q Is the gift room that you are familiar with in the west part of the White House?
A I don't know. I really don't know what side of the White House it is on.
Q Do you know if you are looking at Pennsylvania Avenue, if it was to your right or to your left?
A I don't know.
Q Did you see anyone else near the room where

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you were looking at gifts the time you went up there other than Capricia Marshall?
A Ask me that again.
Q Whether you saw anyone else in the area of the room when you were looking at gifts.
A I think Betty Curry went with me.
Q Other than that, anyone else?
A No, I think when we were maybe at the second floor -- on the first floor, I think on the first floor, I saw -- when we came off the elevator on the first floor, we may have seen Mrs. Clinton. But that -- again, it's been a long time.
MR. COLE: And you are sure that that was not in the summer of 1995, it's been longer ago than that?
THE WITNESS: I feel certain it was longer than that.
MR. COLE: Thank you.
THE WITNESS: You can ask somebody else. Maybe they remember better than I.
BY MR. O'CALLAGHAN:
Q This is a question I -- do your best to

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answer. It may seem a little difficult to answer, but I would appreciate if you could try to answer the best you can. The question is whether, in July or August of 1995, you saw anybody going up to the second or third floor of the residence with a stack of documents about an inch high, 11-by-17 inches, in measurements?
A I don't believe I saw anybody carrying a stack of documents like that to the second or third floor.
MR. COLE: I think perhaps we are getting near the end here.
THE WITNESS: Okay.
MR. O'CALLAGHAN: We are.
BY MR. O'CALLAGHAN:
Q I have one more document which is related to another subject which we touched on earlier, which is a handwritten note I wanted to read to you and ask you a couple of quick questions. I apologize. I meant to read it to you earlier, it got shuffled in with some of the other documents.
A Okay.

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Q It is a one-page document, it has Bates stamps on it DKSN 0236545. And it is a handwritten note with a date 2/15 in the upper right-hand corner. And it's a note says to Kathy Gibson and then it is signed Goss. And I will read the text and ask you a couple of quick questions on it.

A What was the date, 2/15? There was a year on that.

Q There was not. Maybe the text of the note will help put it in place for you.

A May I say something?

Q Certainly.

A My recollection is Kathy Gibson was not working in the White House -- I mean, working in the governor's office when I was there.

Q Okay. That may well have been the case. I will read you the note.

A Okay.

Q It says "Kathy Gibson" and there is a slash, says "Nancy Hernreich supports former judge Bob Boyer filling vacancy that may be created should Judge Bernice" -- I believe it says "Kaiser actually

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go through with her announced decision to retire."

Then the next paragraph reads "she also says that, Bobby Stephens," which is underlined, "president of Beverly Enterprises, acknowledged $1000 contributor to last fall's successful Sebastian Co" -- which I believe is county -- "breakfast wants and would be good for board of Arkansas Housing Development Authority/Arkansas Development Finance Agency." And then it is signed "Goss."

Who is Kathy Gibson?

A Well, again, she wasn't there when I was there, so I don't know exactly what her position was, but I -- I assume that she was an appointment -- she was an appointment to boards and commissions in the governor's office. But she was already gone when I went to work in the governor's office, so --

MR. O'CALLAGHAN: Okay.

BY MR. O'CALLAGHAN:

Q With respect to the signature that reads Goss, do you know who that is?

A What did you ask me?

Q The signature on the bottom reads Goss. Do

you know who that is?
A Kay Goss, I would assume.
Q Who is Kay Goss?
A She worked in the governor's office as a -- you know, she had specific program areas and she had portions of the state that she was responsible for, just in terms of being a contact for them. And she was my contact from -- for my county into the governor's office.
Q And that's when you were organizing campaigns in Sebastian County?
A Could have been in the middle of a campaign, could have been in an interim year, I don't know. It could have been after a campaign. But once you did a campaign, you were sort of considered the person in the county; I did that and Henry Oliver did it, being acknowledged as the liaison for people in the county who wanted to get messages to the governor's office.
Q I guess the other question is, do you recall having conversation with Kay Goss about Bobby Stephens' candidacy for the Arkansas Housing

Development Agency?
A I do not recall having a conversation with Kay Goss about it.
Q Do you recall having a discussion with Kathy Gibson about it?
A No, I do not recall having a discussion with Kathy Gibson about it.
Q Do you recall recommending Bobby Stephens or talk about his candidacy for Arkansas Housing Development Agency at any time?
A I recall -- yes, I recall that. I don't recall that really. I recall his wanting the position.
Q Okay, I'm sorry about that little diversion. I just have one more ultimate question with regard to July/August 1995 in the White House, and the question is whether you ever saw anyone with the Rose billing records?
A No, I have never seen anybody with the Rose billing records.
Q Do you know if anyone moved them into the book room in July or August 1995?

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A Do I know if anybody what?
Q Put them in the book room on the third floor during July or August, 1995.
A I do not know that.
MR. O'CALLAGHAN: Thank you. I have no further questions at this time. Mr. Cole may have a couple of questions for you.
EXAMINATION
BY MR. COLE:
Q Ms. Hernreich, I will be very brief. As Mr. O'Callaghan indicated earlier, I am the Deputy Democratic Special Counsel for the Committee, and I want to ask follow-up questions about one area that Mr. O'Callaghan previously covered with you. And that's the memorandum that he described that's dated 4/14 and was directed to then-Governor Clinton by yourself, regarding R.D. Randolph's visit, if you recall that document. And you testified that the handwritten notation on that document that has an arrow and then the word "ugh," you believed was Governor Clinton's handwriting and that the word was indeed "ugh"; is that correct?

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A That's correct.
Q In looking at the document, which I understand this is difficult because you don't have it in front of you, the arrow goes from the portion of the typewritten paragraph in the document that says, "someone, I think he prefers you, needs to call Tucker." And I wanted to ask you a couple of questions about that. Jim Guy Tucker ran for governor against Bill Clinton in the early 1980s; is that correct?
A Yes, I think that is correct.
Q And I believe in 1982; am I correct in that date?
A He didn't -- yes. The way you phrase that is a little bid odd. He -- they all -- I wouldn't phrase it as he ran against him. They all ran for the same position.
Q They ran in the Democratic primary for the Democratic nomination for governor?
A That's correct.
Q And the reason I ask you that question is that I wanted to ask you if Mr. Tucker and

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Mr. Clinton were at that time political rivals in Arkansas?

A What time?

Q In the 1980-1985 time period, '85, '86?

A I would say that they were probably political rivals in the 1982 Democratic primary.

Q And did -- were Governor Clinton and Jim Guy Tucker close personal friends?

A I don't know.

Q The reason I am asking you this question is that, as I read this note, it appears to me the "ugh" here may be -- the arrow goes directly to the part about needing to call Tucker. And so my question is, is it possible that the "ugh" relates to the sentence that says "needs to call Tucker" as opposed to rest of the memorandum that talks about a meeting which involved $33,000?

A I'm sorry, I don't know. I don't know what it relates to. There is a possibility of that, sure, since he underlined it, but I just don't know.

MR. COLE: I don't have anything further.

THE WITNESS: Okay.

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MR. O'CALLAGHAN: I have nothing further, either, other than thanking you for your time.

THE WITNESS: Okay, sure.

MR. O'CALLAGHAN: Mr. Cearley, do you have any clarifying questions, or Ms. Hernreich, would you like to add anything to the record?

THE WITNESS: I don't think so.

MR. CEARLEY: I appreciate your letting us do this by telephone. Thank you.

THE WITNESS: I appreciate it, too; makes it a lot easier for us, really.

MR. COLE: We will make arrangements, once we have a deposition transcript, for you to review that generally in the same manner as other witnesses have been afforded that opportunity.

MR. CEARLEY: Thank you, Lance.

MR. COLE: Thank you.

(Whereupon, at 12:55 p.m., the deposition was concluded.)

NANCY HERNREICH

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JOANNE LIVERANI , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Joanne Liverani

Notary Public in and for the
District of Columbia

My Commission Expires JULY 31, 2000

DEPONENT: Nancy Hernreich

RE: Whitewater 2-6-96 CR63511.0

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
8	18	Curry	Currie	Spelling
17	17	Linda	Lynda	Spelling
18	15	Fletcher	Pledger	Spelling
18	17	Fletcher	Pledger	Spelling
36	14	Drimmett	Grimmett	Spelling
36	16	Drimmett	Grimmett	Spelling
72	10	Curry	Currie	Spelling
75	6	Curry	Currie	Spelling

DEPOSITION OF ALSTON JENNINGS
IN RE: S. RES. 120

TUESDAY, FEBRUARY 6, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of ALSTON JENNINGS, called for examina tion pursuant to notice of deposition, at 1:25 p.m. in Room 534 of th Dirksen Senate Office Building, before BRENDA M. SMONSKEY a Notary Public within and for the District of Columbia, when wer present:

VIET D. DINH, ESQ.
Majority Associate Special Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALSTON JENNINGS, JR., ESQ.
200 West Capitol Avenue
Little Rock, Arkansas 72201
On behalf of the Deponent.

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PROCEEDINGS

MR. DINH: Mr. Jennings, as you know, my name is Viet Dinh. I am with the Majority side of the Special Committee. With me is Lance Cole, who is with the Minority side. This deposition is conducted pursuant to Senate Resolution 120. The resolution establishes the Special Committee which is administered by the Senate Banking Committee, and the Special Committee is authorized to conduct an investigation into the Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and some related matters.

Section 1(d)(1) of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death."

Section 1(b)(3)(A) of Resolution 120 authorizes investigation and public hearings into the operations, solvency and regulation of Madison Guaranty Savings & Loan Association and any

subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association.

Section 1(b)(3)(C) of Resolution 120 authorizes the investigation and public hearings into "the policies and practices of the RTC and the federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association."

I anticipate that these subjects will be the focus of today's deposition. The testimony you are about to give is to be given under oath, and the stenographer will prepare a record of questions and answers. This deposition is taken in advance of public hearings which are being conducted right now by the Special Committee.

We have not decided who among the witnesses deposed will be called at the public hearings, but if you are among the witnesses called to testify at the public hearings, we will notify you in advance.

The transcripts of this deposition will be treated as committee confidential until the

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commencement of those hearings. At that time, the transcript may be made public in whole or in part. Prior to the hearings, you will receive a letter from the committee telling you that you may review the transcript of your deposition and make note of any corrections of transcription on an errata sheet. That, again, is for the limited purpose of review and correction and the information should not be disclosed for any other reason.

MR. COLE: If I could just interrupt you for a moment, Mr. Dinh. I wanted to clarify for Mr. Jennings, Jr. and Senior that for witnesses who have traveled up here to testify from Arkansas or other places and are not in Washington, we made arrangements to send the deposition transcripts to the witness prior to the hearing. So obviously you don't have to come up here solely for the purpose of reviewing the transcript.

MR. DINH: Thank you very much, Mr. Cole. If you are called to testify at the public hearings, we will provide you with your own copy of the deposition transcript approximately four days in

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advance of your testimony, again, for the limited purpose of preparing yourself for the testimony at the hearings. Pursuant to Resolution 120, you may be represented by counsel. As I see, you have counsel present here.

Can counsel make an appearance for the record, please.

MR. JENNINGS, JR: I'm Alston Jennings, Jr.

MR. DINH: Pursuant to the procedures set forth in Resolution 120, objections as to the form of the questions will be noted for the record. There are two grounds upon which counsel may object and give an instruction not to answer, and those are privilege and scope, the traditional privilege objection and also an objection that the questions and subject matters fall outside the scope of Senate Resolution 120.

The committee chairman, again, pursuant to the procedures set forth in Resolution 120 will ultimately rule on the objections where the witness refuses to answer a question.

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Please swear in the witness.
Whereupon,
ALSTON JENNINGS
was called as a witness and, having first been duly sworn, was examined and testified as follows:
EXAMINATION
BY MR. DINH:
Q Can you state your full name for the record, please.
A Charles Alston Jennings, but I have never used the first name except in the service and for income tax filing.
Q And just for purpose of completeness, you are Senior?
A That is correct.
Q And your counsel is Alston Jennings, Jr.?
A Correct.

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BY MR. DINH:

Q Let me ask you, from the notice of your deposition here today, have you had any conversations outside of your immediate family or your counsel, which in this case happens to be one and the same, have you had any discussions outside of those people about the substance or subject matter that you have been asked to testify about?
A I have had some conversation with partners in my law firm to the effect that I have been subpoenaed and that I really didn't know what the reason was.
Q Other than the partners at your law firm, have you had any other discussions about the substance of what you are about to testify?
A No, sir.

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Q Without telling me what you were asked or what you said, can you tell me whether you have been interviewed or questioned under oath by any other investigative agency about the subject matter you have been asked to testify about?
A I have been questioned by the law firm, I guess they have a Washington office, but in San Francisco.
Q The Pillsbury, Madison & Sutro law firm?
A Yes.
Q They were conducting that interview pursuant to their work with the RTC?
A That was my understanding. I have also been questioned by somebody with the RTC, and I believe I was questioned by maybe the FBI. I have been questioned three times.
Q When were you questioned by the RTC? Was that the first interview that you had with the investigators?
A I couldn't tell you even a close date, but I believe it was the first one.
Q Was that within five years of today?

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A It could have been -- let's see. We were litigating and it would have been probably three to four years ago would be my best guess.
Q And then the next interview, was that with the law firm of Pillsbury, Madison & Sutro or was that with the FBI agents?
A I have been interviewed by both.
Q Which one came next?
A I believe that this Pillsbury was third, was my best recollection.
Q And the FBI agents, did they advise you whether they were questioning for the Special Counsel, Mr. Robert Fiske, or was it the Independent Counsel, Mr. Kenneth Starr?
A It was bound to have been when Mr. Fiske was Special Counsel.
Q Let me get right to the point. I'm going to ask you some questions regarding the case of Ward v. Madison Guaranty Savings and Loan Association. Were you involved in that case?
A Yes, sir.
Q In what capacity?

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A I represented Mr. Ward in his lawsuit against Madison for commissions.
Q How did you come about to retain Mr. Ward as a client?
A I understand, and I don't know this from my personal knowledge, but I understand that his son-in-law, Mr. Hubbell, said that he could not represent him, and I believe, although I'm not sure of this, that Mr. Hubbell recommended me to Mr. Ward.
Q Did you have any conversation with Mr. Hubbell regarding this apparent or supposed conflict of interest?
A No. I never had any conversation with Mr. Hubbell with regard to conflict of interest. I won't say I never talked to Mr. Hubbell during the course of the lawsuit. I may well have, but I don't recall anything specific.
Q You said that you had an understanding but no direct knowledge of this fact. From where did you gain that understanding?
A From Mr. Ward.

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Q He told you -- so, Mr. Ward contacted you before the start of this trial to ask you to represent him?
A Yes.
Q And at that time, did he give you the understanding that Mr. Hubbell had recommended you?
A Yes.
Q And it was at that time that he also advised you that Mr. Hubbell had a potential conflict of interest and that's why he could not represent him personally?
A That's correct.
Q Approximately when was this, what year?
A The lawsuit was tried in August of 1988.
Q Approximately how much earlier prior to August 1988 did Mr. Ward approach you?
A I would have to make a guess, but it was probably a year before we got to trial.
Q So approximately August 1987?
A About then.
Q I understand that at that time you had retired from your law firm and was of counsel to the

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firm?
A That's correct.
Q So, as of counsel, you had -- do I understand that -- and maybe you can help me understand -- you had more leeway as to the choice of cases that you accept or reject?
A Oh, I didn't consider that it was any different situation with regard to my choosing to accept a case.
Q What criteria do you use in order to choose to accept or reject a case?
A Obviously you discuss what the client's situation is and you decide whether or not you want to participate.
Q Did you know Mr. Ward prior to his approaching you in 1987?
A Yes.
Q In what capacity did you know him?
A Just as a local businessman.
Q I take it he was fairly well-known?
A Yes.
Q And did you know Mr. Hubbell prior to that?

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A Oh, yes.
Q In what capacity?
A As a fellow lawyer, and he lived on the same street that I did.
Q So, both in a professional and a social setting?
A Yes, more professional than social. Web was considerably younger than I.
Q But your initial conversation with Mr. Ward was when you decided to accept his case against Madison Guaranty Savings & Loan Association?
A Yes.
Q Have you or a member of your firm represented Madison or any related entity?
A No.
Q I take it that you conducted a normal conflicts check before you accepted Mr. Ward as a client?
A Did what?
Q You did a normal conflicts check with all the members of your firm?
A Yes, I'm sure we did. We always do

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conflicts checks.
Q Aside from the merits of the case, and by saying aside from, I want to leave it aside, not to make any connotation regarding that. Aside from the merits of the case, did you have any reservations regarding taking on the case that Mr. Ward had against Madison Guaranty Savings & Loan Association?
A No, sir.
Q Do you still represent Mr. Ward at this time?
A No.
Q When did your representation of him cease?
A When the RTC became involved in the case that was filed and removed to federal court, the RTC asked that I disqualify for further representation of Mr. Ward.
Q What was the basis of that request from the RTC?
A Our firm represented the FDIC and probably FSLIC, and I guess RTC after it came into being.
Q Because the RTC was a successor to the FDIC?

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A Yes.
Q And was this representation of the FDIC and FSLIC and the RTC independent of Madison Guaranty?
A Oh, absolutely, as far as I'm aware. I did not personally have any connection to that representation.
Q So, at the objection of the RTC, you withdrew from the representation?
A That's correct.
Q And you said this was approximately when the RTC became involved and removed the case to federal court?
A Yes. Let's see. The case was tried in '88. It was appealed. So this would have been sometime in '90, I guess, when the RTC came into being, my recollection, or '89. No, it would have been '89.
Q Was this suggestion by the RTC made in a formal filing with the federal district court or was this a request to you?
A I don't believe so. I think they talked to our managing partner.

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Q And then based on that communication, you made a decision to disqualify yourself?
A That's right.
Q And since your removal from the case in approximately -- on or about 1990, did you have any other dealings in the case or with Mr. Ward?
A I had no dealings with him as his attorney. I had -- I see Mr. Ward frequently.
Q As a social acquaintance?
A Yes.
Q During these visits after 1990, did you have any discussions with him regarding the case just as friends?
A Yes.
Q Incidentally, who was your successor as Mr. Ward's counsel?
A Tom Ray.
Q Can you spell that for me?
A R-a-y.
Q And do you know what firm he is with?
A Schults, Ray & Burris?
MR. JENNINGS, JR: Kurus, K-u-r-u-s, I

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believe.
THE WITNESS: Yes.
BY MR. DINH:
Q You mentioned earlier that a dispute between Mr. Ward and Madison Guaranty was in the nature of disputed sales commissions?
A That is correct.
Q Can you describe more generally what the nature of the dispute is?
A Well, it involved the sale of the property that was purchased from the IDC, Industrial Development Commission, and Mr. Ward was to receive a commission on the sales of portions of that property as they were sold.
Q And you said that the property that was purchased from the IDC, who purchased it?
A My understanding and recollection is that Mr. Ward purchased the property north of 65th Street, I believe it is. The property was divided by a main thoroughfare, and he purchased the property north of that thoroughfare, and I guess Madison Financial purchased the property south.

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Q Would that have been 145th Street?
A That's right, yes. Excuse me. It was 145th Street.
Q I'm just going to show you a little bit of a map.
MR. COLE: Can we identify that for the record. There is no Bates number on it, I take it, but perhaps you could describe it for the record.
MR. DINH: It is essentially a plot map of the property in question. The property is divided east to west by 145th Street. This map and the color representations on that are made by the members of the Special Committee staff. The plot map itself, I believe, is part of the public record and related to the Castle Grande or IDC transaction.
BY MR. DINH:
Q Does that roughly approximate the property that was the basis of the dispute between Ward and Madison?
A I never had any knowledge of any particular property, because we based our lawsuit on the figures with regard to sales that were furnished to us by

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Madison. So, I never investigated the specific property. I never have been down there.
Q Let me understand this. The area that was in dispute, not in dispute, but the affected area with respect to this lawsuit was land that Mr. Ward had purchased from IDC?
A And land that, as I understand it, that Madison Financial had purchased.
Q South of 145th Street?
A As I understood it, it encompassed all of the land that was purchased from the IDC.
Q The dispute concerned the commissions from the sale of that land, the subsequent resale of that land?
A That's correct.
Q And that is, just to spell everything out, Mr. Ward had an understanding with Madison that he would get a commission for whatever sale he would make or resale, as it were, he would make of the affected land?
A He would make or that they would make. He had an agreement with Mr. McDougal.

Q Mr. McDougal at that time was?
A He was the head man at Madison. I guess he was president, chairman of the board, whatever.
Q And is it correct in my understanding that at least on one understanding of the agreement between Mr. Ward and Mr. McDougal is that Mr. Ward would get 10 percent commission of the purchase or sales price of any property that he personally handled the sale for and 4 percent of whatever property that somebody else handled the sales for?
A That is not my recollection. My recollection is that he was to get 10 percent of sales of commercial property and 4 percent of sales of residential property.
MR. COLE: If I could ask just one clarifying question, perhaps to refresh your recollection further, Mr. Jennings. Do you have a recollection that the understanding was that Mr. Ward would receive an 8 percent commission if he sold the property himself and a 4 percent commission if Madison sold the property, the commercial property?
THE WITNESS: I have a hazy recollection of something like that.
MR. COLE: I'm asking that based on my review of the record in Ward v. Madison.
THE WITNESS: I do have some hazy recollection that there was some difference involved in who sold the property, but I do not really remember now. I reviewed it from the transcript, but I do not really remember now the exact details.
BY MR. DINH:
Q It seems pretty straightforward. What was the dispute about?
A I think, as I understood it, at the beginning of the lawsuit, the dispute was about the amount of commissions that were owed, and it was my understanding that it was agreed between the parties that at least $300,000 was owed to Mr. Ward. Mr. Ward, according to what he told me, kept asking them to pay him, and they told him they didn't have the money, but they gave him a note for $300,000.
So, the lawsuit basically was over whether or not there was more than $300,000 owed. That was the basic issue of the lawsuit.

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Q So, Madison acknowledged they owed him $300,000?
A Well, Mr. Ward says they did. They did not come out and acknowledge that in the lawsuit. In the lawsuit, they said they didn't owe him anything, but he had a note from them for $300,000. He was suing on that note as part of his lawsuit.
Q And do you recall the initial agreement between Mr. Ward and Mr. McDougal? Do you remember where and when the terms of that agreement were set out?
A See, I didn't represent Mr. Ward at that time. I have seen a copy of an agreement and been told what happened, but I had nothing to do with that.
Q I want to show you now what is labeled as exhibit, SEN 30383 and 30384 and ask you to study that. This is a letter from Mr. Ward to Mr. McDougal dated September 24, 1985.
A I have seen this before.
Q Can you describe under what circumstances you have seen this before?

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A Sure. I saw it in connection with the lawsuit.
Q What does this represent?
A It represents an agreement, as I understand it, between Mr. McDougal and Mr. Ward with regard to the IDC property and Mr. Ward's involvement and what his compensation would be.
Q Let me show you now another document, also a letter from Mr. Ward to Mr. McDougal dated September 24, 1985 and identified as Bates number SEN 33094, and also there is a separate Bates number SW 1-005 and it continues for two pages, so SW 1-007, and also continues to SEN 33096. Please study that.
(Witness examined the document.)
A I assume that if this was introduced in evidence at the trial, I have seen it.
Q And on the left-hand side of the page, it says "Plaintiff's Exhibit Number 4."
A I assume that is from our lawsuit.
Q So, you have seen this. Can you describe what this is?
A Again, it relates to his agreement with

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Mr. McDougal concerning the property commonly referred to as all the land owned by the Industrial Development Company of Little Rock and certain improvements.

Q So, they serve the same purpose?

A I understand that is correct, yes.

Q The terms are somewhat different because the substance of the two letters are somewhat different, but they are dated the same?

A Yes.

Q Did you have knowledge of both these letters during the trial or during your representation of Mr. Ward?

A Yes, I'm sure I did.

Q Can you explain to me why there was a need for two separate -- two different letters?

A Well, I can explain what Mr. Ward has testified to in regard to it.

Q If you could do that, yes.

A That one letter omitted a portion of the agreement and that he had a second letter, so it would include what was left out in the first one.

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Q Do you know whether the second letter, that is, the letter identified as SEN 33094, was indeed executed on September 24, 1985? Or was that made at a later date?

A My understanding is that it was not executed on the date -- if this is the letter that I am -- there was a letter that was marked void which was introduced into evidence, as I recall. If this was the second or third letter, it was not executed on the date it was dated. That's my understanding.

Q Do you know when it was executed, approximately?

A My understanding was that it was a day or so later.

Q Basically, the difference between the two letters was that the subsequent letter, the letter that is identified as SEN 33094, excluded from the option granted to Madison Guaranty to purchase the land back from Mr. Ward a parcel that is described in specific detail in the letter, but what is commonly known as Holman Acres?

A That is correct.

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Q Can you explain what the import of this exclusion from the option means?
A That is just what the parties agreed to. I don't know why or how it came about.
Q But that means that Mr. Ward has title to that piece of property and unaffected by the option granted to Madison Guaranty associated with the transaction?
A That is my understanding, yes.
Q So, Madison Guaranty or Madison Financial, whichever of the Madison entity was related -- so, Madison retained an option to purchase back from Mr. Ward all of the property that he has purchased from IDC, except, if the second letter reflects adequately the understanding of the parties, except the parcel identified as Holman Acres?
A That is my understanding.
Q Do you know who drafted the second letter?
A No, sir.
Q But Mr. Ward told you it was drafted within a day or two of the first letter?
A Yes, sir. This letter is signed by

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Mr. McDougal.
Q Right. Actually, it was countersigned by Mr. McDougal. It was acknowledged and accepted by Mr. McDougal but signed by Mr. Ward.
A Mr. McDougal's signature also appears.
Q It was a letter from Mr. Ward to Mr. McDougal.
A That doesn't mean to imply that Mr. McDougal wrote the letter, but he did sign it and accept it.
Q Did you use that document, including Mr. McDougal's signature, as signed and accepted, as evidence of the parties' intent?
A Yes.
Q Just so I can get a further understanding of the case, was there a subsequent option that was agreed to by the parties with respect to the Holman Acres property?
A Yes.
Q Let me ask you to -- let me refer you to exhibit Bates number SW 1-070 through SW 1-074 and ask you to study that.

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(Witness examined the document.)
A This is an option to purchase executed by Mr. Ward and Madison Financial Corporation by I believe that signature is John Latham.
Q Mr. Latham is also an officer of Madison?
A He was the Madison representative after Mr. McDougal left. Just exactly what position he occupied before that I'm not sure. But I'm sure he was an officer of Madison, yes, either Financial or Guaranty. I don't know which.
Q This option, is this the option that you referred to in your early answer respecting the option for Madison to purchase Holman Acres from Mr. Ward?
A Yes, sir.
Q And when was this executed, do you know? You can read the first line of this.
A The first day of May 1986.
Q This was executed May 1st of 1986?
A Yes, sir.
Q Incidentally, do you know why the second option dealt with only 6.67 acres whereas the

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original letter agreement concerned 22-1/2 acres of Holman Acres?
A I was not aware that there was a second option.
Q I'm sorry. This is the option that we are talking about that was executed May 1st, 1986. The original letter agreement dated September 24, 1985, to which we were referring earlier, Plaintiff's Exhibit 4 in your trial, the portion that was reserved from the option, the umbrella option for Madison concerned a portion of land that encompassed 22-1/2 acres?
MR. COLE: Maybe slow down a little bit, because I'm not sure which portion is Holman Acres. Is Holman Acres the entire 22 acres or is it the 6-acre tract, if Mr. Jennings can shed any light on that issue?
THE WITNESS: I will tell you the truth. This is the first time I have noticed there was any difference in the agreement as to what he reserved and the actual optioned property.
BY MR. DINH:

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Q That wasn't an issue in the case?
A No. If there was any question, the option had been agreed to, and of course it was never exercised.
MR. COLE: Was it your understanding in the trial, though, that the property referred to in the May 1986 option that Mr. Dinh just showed you was the same property that was referenced in the September 24th letter?
THE WITNESS: That's what I thought during the whole trial. I never noticed any difference.
BY MR. DINH:
Q But the difference was not focused upon during the trial?
A No, because it was never exercised. I didn't pay any attention to it. The only reason it came into the trial was because they supposedly agreed to pay a certain amount of money, whether it was 10,000 or 1000 or whatever for the option, and they never paid it. So we sought to recover that amount, whatever it was, in the trial.
Q Right. I think this option says the

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consideration for the option is $1000. So that was part of your claim against Madison Financial?
A That's right.
Q Even though Mr. Ward and Mr. Latham had executed this option, the consideration for which has not been paid?
A That's my recollection, yes.
Q And the option was never exercised?
A That's correct. Now, something I would like to know is when Mr. Ward executed a deed, as I understand and as I recall it, he executed the deed to Holman Acres, which would have included the whole 22-1/2 acres less some part that one of the banks bought. That's my recollection.
Q This is the quit claim deed that you were talking about?
A Yes.
Q He executed the quit claim deed in favor of Madison?
A Yes. Whether it was Madison Financial or Madison Guaranty, I don't know, but it was Madison.
Q One of the Madison entities.

MR. DINH: Off the record.
(Discussion off the record.)
BY MR. DINH:
Q As I understand it, between the original September 1985 agreement and this May 1, 1986 agreement, Madison also granted to Mr. Ward a note or executed a note for Mr. Ward; is that right?
A My recollection is now, and you can find it from the transcript, but my recollection is that the note from Madison to Ward was at some date before the May date. That's my recollection of it.
Q This is the promissory note?
A Yes.
Q This is the $300,000 note?
A That's the $300,000 note. I could be wrong about that. But I thought it was an April note.
Q Now, did Mr. Ward in the interim also take out a loan from Madison?
A Yes.
Q Do you remember the approximate amount of that?
A He borrowed money from Madison on more than

one occasion. I think probably the one you were asking about was a $400,000 loan. That's the one that was secured by the mortgage on Holman Acres.
Q So, he took out a loan for $400,000 secured by Holman Acres, and do I understand it correctly that he paid back to Madison $100,000 of that?
A That is correct.
Q Within a week of the --
A 12 days, I believe, my recollection.
Q The value of the outstanding amount for the mortgage on Holman Acres was approximately $300,000?
A That's correct, plus interest.
Q Plus interest. And from your involvement with the case, did you understand this particular loan to have any connection with the original agreement or with the option that was subsequently executed?
A You mean with regard to commissions?
Q Yes.
A As far as I understood, it had nothing whatsoever to do with commissions.
MR. COLE: The question went to the

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subsequent May 1986 option agreement, whether that had to do with commissions?

MR. DINH: Yes. Read back the question.

(The reporter read the record as requested.)

BY MR. DINH:

Q So the $300,000 loan was independent of the commissions?

A The $400,000 loan was independent of the commissions, according to my understanding of the entire transaction.

Q Okay. And so what were you suing on on the $300,000 note?

A We had an agreement before the jury went out that if the jury returned a verdict for as much as $300,000, that it would be considered a judgment on the note. And they returned a verdict in excess of $300,000, so the $300,000 note and the interest on that was considered to be a part of that judgment. Now, this is a $300,000 note from Madison Financial to Mr. Ward.

Q Right, the promissory note, not the $400,000 loan.

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A Right. This is one from Madison to Mr. Ward.

Q As you understand the case or at least Mr. Ward's position, it was that $300,000 promissory note which was the amount owed to him for the commissions associated with the sale of the land?

A That he was owed at least that much money.

Q At least that much money.

And his position was that the $400,000 loan was independent -- secured by Holman Acres was independent of any commissions he was owed?

A Completely.

Q Did that $400,000 loan under Mr. Ward's interpretation of the contracts and the agreements, did that $400,000 loan have any relation to the subsequent May 1, 1986 option?

A Not so far as I'm aware.

Q Do you have an understanding from Mr. Ward as to what was the purpose of the May 1, 1986 option?

A My understanding was that Mr. McDougal was interested in buying the property and that rather than buying it outright, he agreed to take an option

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on it. So, he was free to buy it or not buy it.
Q What was the purchase price of that option, do you recall?
A In the option?
Q In the option, the May 1, 1986 option.
A My recollection was it was $400,000.
Q So, just to recap the position of Mr. Ward during this litigation, hopefully succinctly, was that he was owed some commissions, at least $300,000 worth. The evidence of that amount owed was the promissory note that Madison executed in his favor for $300,000?
A Well, it was in lieu of $300,000 in cash. They told him they didn't have the money to pay him.
Q And the transaction relating to the loan, the $400,000 loan secured by Holman Acres was independent of the commissions?
A My understanding it was totally independent of the commissions.
Q Likewise, the May 1, 1986 option?
A Totally independent, as far as I knew.
Q Now, this wasn't the position of Madison

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Financial, was it?
A I believe that Mr. Latham, if my recollection is correct, agreed with Mr. Ward about the $300,000 note from Financial to Mr. Ward being in lieu of paying that amount of money in cash. That's my recollection.
Q Did Mr. Latham have a further position with respect to the linkage between the $400,000 loan secured by Holman Acres and the subsequent May 1, 1986 option to purchase Holman Acres?
A I'm not aware of any linkage whatsoever by anybody.
Q So, what was Mr. Latham's litigation position in the case?
A I never did figure it out. Evidently it was not very strong.
Q We will get to that.
With respect to that, I would like to refer you to the transcript of the trial, and specifically to Mr. Latham's testimony before the jury there. This is the transcript of a trial in Ward v. Madison, Number 87-7580 in the circuit court of Pulaski

County.

At page 99 of that transcript, Mr. Latham was asked by Ms. Bartley, whom I believe to be his counsel at the time, your opposing counsel in the litigation?

A That's correct.

Q Ms. Bartley asked "can you tell the jury what you recall of the circumstances surrounding Mr. Ward borrowing $400,000 from Madison Guaranty?

"Answer: At that time, Mr. Ward was needing about $400,000 in cash for some personal reasons. The service corporation was not in a position at that time, if I remember correctly, to pay him the $300,000 or so that was owed in commissions. The savings and loan loaned Seth the money secured by a mortgage on tracts 27 and 28 of Holman Acres."

Does that suggest to you that Mr. Latham understood there to be a linkage between the $400,000 loan and the commissions that were owed to Mr. Ward?

A No. I read it to be that Mr. Ward wasn't getting any money in commissions and he needed some

money, so he borrowed some money.

Q So he borrowed some money secured by Holman Acres?

A Yes.

Q Let me proceed a little bit further, actually two questions down from that original exchange that I referred you to. This is again at page 101 of the same transcript.

"Question: I want you to look at now what has been introduced as Defendant's Exhibit 3, an option to purchase tracts 27 and 28 of Holman Acres. Can you tell the jury about the circumstances surrounding the financial corporation taking an option out on this property?

"Answer: Yes. I know this is confusing, but the loan was done really at that time in lieu of the option. The option more concretely or more accurately reflects the nature of the transaction, that being that the service corporation owed Seth $300,000 in commissions. In the initial purchase of all that property, Seth retained tracts 27 and 28 of Holman Acres as his commission, which was later to be

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bought by the service corporation. The option allows the service corporation to buy the property from Seth, thus Seth receives a $300,000 and the service corporation would have the property. The note was done very quickly to make sure that that debt was evidence should something happen to anybody to protect Seth. The note, however, would have left, if that was the way it was finally structured, would have left Seth with the $300,000 plus the property, which was not the intent of the transaction."

A Well, I would have to agree with Mr. Latham that it is pretty confused. But I would say that having somebody agree that at their option they could pay you $400,000, which they didn't have to pay, would not represent any payment of any indebtedness that they might have. It wouldn't to me. I don't see how it has any relationship to the commissions since the Madison has got the option that they don't have to exercise and didn't exercise. So, that's no money in Mr. Ward's pocket, except $1000, which they didn't pay either.

Q But Mr. Latham's position was that the

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option was entered into, at least from Madison's perspective, in order to effect the intent of the parties with respect to the commissions; correct?

A If that was his impression, it was totally idiotic.

Q Certainly that quote that it was idiotic was certainly Mr. Ward's position during the trial.

A I never picked up Mr. Latham thinking that this option had anything to do with paying Mr. Ward for what was owed, even his commissions, because he didn't receive any money because of this option.

Q But Mr. Latham's position is that the original intent was not to give Mr. Ward both the land in Holman Acres and his commissions; it was either/or. It was the land or the commissions and that's why the structure was -- why the note was restructured as an option, so that he would only get either the commissions or retain the land?

A I never at any time thought that the evidence with regard to the transactions was subject to any such interpretation. Now, what Mr. Latham thought I don't know. Frankly, I ignored that

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testimony; it seemed so off the wall to me.
Q It may appear to be off the wall, but indeed that was Mr. Latham's position?
A That's apparently what he was trying to propose.
Q His defense against the $300,000 obligation to Mr. Ward was that he was either going to get the $300,000 or the land, not both?
A I guess that's his position.
Q And by retaining the land and suing on the $300,000 promissory note, he is basically getting a windfall beyond the intent of the parties to the original September 24th, 1985 agreement?
A He might be getting a windfall according to Mr. Latham's testimony as to what the intent was, but he did not get any windfall based upon the documents that were executed.
Q And as a matter of fact, the question as to the intent is, the intent of the original agreement was one of the primary issues litigated in the case; correct?
A No.

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Q No?
A No.
Q What was the central issue in the case? What the meaning of the documents was?
A Yes. Have you looked at the instructions?
Q I did, and as a matter of fact, right after that exchange, that answer by Mr. Latham, you objected, and you said "if the court please, we object to that statement as being intent to vary the terms of the written agreement by oral testimony," again, consistent with what you have testified a minute ago as to your theory of the case. The court denied that objection.
A That's right.
Q The court explained that "I will let you cross him."
The question from Mr. Jennings, "you mean later?"
"The court: After a while."
So, the court, in fact, permitted the parties to go beyond the statement of the terms of the written agreement and to permit Mr. Latham's

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testimony as to the intent of the parties with respect to the original agreement; correct?
A That's what the record shows.
Q Given that, given that posture, do you agree that the May 1986 option was relevant to the intent of the parties with respect to what was agreed to in the original agreement between Mr. Ward and Mr. Latham or Mr. McDougal?
A No.
Q But if one adopts or if one gives credence to Mr. Latham's position, admittedly not your own position, not Mr. Ward's position in the litigation, the purpose for the option certainly is relevant; correct?
A I still don't see it, I'm sorry.
Q His position is that -- and I will ask you to bear with me in seeing his position, not your own during the litigation and not Mr. Ward's interpretation of the contract, but Mr. Latham's position. His position is that Mr. Ward is owed either the land or the commissions; that was the import of his earlier testimony which you said you

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did not pay much credence to.
A That's apparently what he was claiming.
Q And the reason why the option was important to him was because it was in lieu of the promissory note, the $300,000 promissory note, because the promissory note would give Mr. Ward both the land and the $300,000, whereas the option would, if it was exercised and properly executed, would have given Mr. Ward only the land or the commission?
A I don't see that, I'm sorry. The note was a promissory note, a valid and binding obligation of Madison Financial. The option was strictly an option. I don't see how one cancels out the other, I'm sorry.
Q I understand. I understand that that's what the documents seem to indicate, and as a matter of fact, that's what the jury ultimately awarded Mr. Ward. But according to Mr. Latham, however it is to be understood, he intended the option to cancel out the note, to replace the note. That is, the option, as I read his testimony, again, at page 101, "the option allows the service corporation to buy

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the property from Seth, thus Seth receives the $300,000 and the service corporation would have the property."

A I'm sure you read it accurately, that that's what they said.

Q And he explained that "the option more concretely or more accurately reflects the nature of the transaction, that being that the service corporation owes Seth $300,000 in commissions."

A That's again what he said.

Q So, that was crucial to his -- so, at least not to your understanding of the transaction and certainly not Mr. Ward's litigation position in this case against Madison Guaranty, but certainly with respect to Mr. Latham's position, the option was -- the intent behind the option was critical to his defense with respect to your client?

A He testified that that's what he interpreted. He also testified that the entire transaction was a good deal for Madison.

Q Just as an aside, following up on your last answer there, have you come to any other

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understanding of the transaction, that is, that it was not entirely a good deal for Madison?

A I have heard statements that it wasn't.

Q And how so?

A Newspaper accounts saying that they lost $4-1/2 million on the deal.

MR. COLE: That would probably make it not a good deal.

THE WITNESS: It is hard to do, to buy a property for $1750 and lose it for 4 million. You have to work at it. Seriously, I have heard that some of the sales they did not collect the money that was agreed to be the purchase price. Yes, I have heard that.

BY MR. DINH:

Q Getting back now to Mr. Latham's litigation -- litigating position and having established that the option and the intent behind the option, that is, Mr. Latham's intent of it as -- the intent of it was as a replacement of the promissory note so that Mr. Ward would not get both the $300,000 and the land but only get either/or, that is, either

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get his commission or the land associated with Holman Acres.

The intent behind the option obviously is crucial to that defense. Did he offer any evidence as to the intent of the option other than his statement here that I have read to you?

A Did Mr. Latham offer?

Q Did Mr. Latham or his counsel?

A Not to my recollection, no.

Q Did you offer any evidence with respect to the intent behind the option to purchase the real estate that was executed in May 1986?

A No. I thought it spoke for itself.

Q You thought it spoke for itself. And what exactly is that? What exactly was your understanding of the option?

A That Mr. McDougal paid -- offered to pay $1000 to have an option to buy the property for $400,000. That was --

Q That is independent of the commissions?

A As far as I'm concerned, it is totally independent. It has nothing whatsoever to do with

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the commissions.

Q But you did not offer any evidence to refute Mr. Latham's statement that it was indeed independent? Mr. Latham seemed to think that it was --

A I didn't offer any evidence to refute what Mr. Latham said.

Q I'm sorry?

A I did not offer any evidence to refute what Mr. Latham said. I took the position that intent had nothing to do with it. I object to his testifying about intent. I certainly wasn't going to put on any evidence about intent after I made that objection.

MR. DINH: Off the record.

(Discussion off the record.)

BY MR. DINH:

Q Do you know who drafted the option?

A I have no idea.

Q At that time, you did not know. Do you now know who drafted the option?

A I do not know who drafted the option.

MR. COLE: By "the option," we are

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referring to the May 1986 document?
MR. DINH: Yes. Bates numbered SW 1-070.
BY MR. DINH:
Q Again, I know we have skirted around the issue, but just to make clear, what was the reason for you not investigating the intent behind the option?
A The option was never exercised. As far as I was concerned, the option was really not a part of the litigation.
Q And you thought that offering any evidence of intent behind the option would be counterproductive in light of your position that the documents speak for themselves?
A Plus the fact that I didn't think there was any reason to offer any evidence of intent.
Q But Mr. Latham has, that is, his own testimony is that the intent of the option was to replace the promissory note.
A That's what Mr. Latham said. Of course, Mr. Latham had nothing to do with the original transaction between Mr. Ward and Mr. McDougal, so far

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as I know.
Q And that fact, that Mr. Latham did not have an understanding as to the original agreement contributed to your decision or your judgment that intent was irrelevant or at least offering evidence of intent behind the option was irrelevant to the case?
A I thought and still think that his evidence with regard to the intent of the option was totally irrelevant to anything that I was interested in in that lawsuit.
Q I know you didn't offer any evidence as to the intent of the option during the trial. Did you interview any witnesses regarding the intent of the option?
A I didn't investigate the option one way or another. It was totally irrelevant to me in the presentation of my lawsuit.
Q You did talk to Mr. Ward about it, however, did you?
A I knew of its existence because I was suing for the $1000 that they said they were going to pay

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him.
Q Did Mr. Ward offer to you his understanding as to the intent behind the May 1986 option?
A Told me Mr. McDougal wanted to buy the property.
Q And did he tell you that it was independent of the promissory note and of the commissions?
A I'm sure he didn't, because I never asked any such question, because obviously to me it was totally independent.
Q And even after Mr. Latham's testimony, you did not do any investigation with respect to the intent behind the option?
A None whatsoever.
Q You stated that Mr. Latham was not a party to the original agreement between Mr. McDougal and Mr. Ward.
A So far as I know, he was not.
Q Did Mr. McDougal testify at the trial?
A No.
Q And why is that?
A Well, Mr. McDougal had been removed from

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his position with Madison.
Q Do you know approximately when that was?
A I tell you, approximately sometime in '86, summer of '86, I believe.
Q So in the six months between the execution of the September 1985 agreement and the -- no, actually sometime in 1986 he was removed?
A My understanding was in the summer of '86, July maybe, August.
MR. COLE: That's consistent with the record that has been developed in our hearings here, Mr. Jennings.
BY MR. DINH:
Q Did you make an effort to find Mr. McDougal?
A No.
Q Why was that?
A I didn't need him. I had written documents.
Q And I take it Madison Guaranty did not offer any evidence as to Mr. McDougal's testimony?
A No.

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Q Was he in town at this time of year?
A I have no idea. Probably not in Little Rock, but I don't know that.
Q You didn't ask him where Mr. McDougal was?
A No.
Q Because under your theory of the case, you had the written documents. So if there is any evidence as to intent offered by Mr. McDougal, it would be by Madison rather than by yourself?
A That is correct. If they had given me a witness list saying that Mr. McDougal was going to testify, I would have taken his deposition. But they did not tell me that he was going to testify.
Q So, basically, the litigation position for both sides, if I can distill it down to contracts, is you want to rely on the parties' agreement as evidenced by the four corners of the documents that were executed?
A That's right.
Q They wanted to enter evidence of intent, what we call "parol evidence of intent" surrounding the parties' understanding of these written

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documents?
A I would say they made sort of an abortive attempt, but it wasn't really a very serious attempt.
Q Of course, as you stated earlier, Mr. Latham had no direct knowledge as to what was the intent of Mr. McDougal at the time of the execution of the contract?
A So far as I know, he did not have any.
Q That was part of the reason why you did not offer any evidence to contradict his statements as to intent of the parties?
A I did not offer any evidence because I didn't think it was really an issue.
Q But Mr. McDougal certainly would have had direct knowledge as to what the intent of the parties were at the time?
A He might well have. I doubt if he would have been permitted to testify to it. But he certainly would have had knowledge of it.
Q You certainly would have objected to his testimony as to the intent?

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A It depends upon what it was. If he said the intent is what is set forth in the documents, I would have said that's fine. If he said the intent was something different than what is set forth in the documents, I would have said that is not admissible.
Q As you objected when Mr. Latham attempted to introduce evidence of intent?
A Correct.
Q Did Mr. Ward testify?
A Oh, yes.
Q Did he testify as to the intent of the parties?
A No. He didn't say we got all these documents but we really didn't intend any of that, if that's what you mean.
Q He testified as to what his understanding of the documents mean?
A That's what the documents said.
Q That's consistent with what the documents said?
A That's right.
Q And ultimately you prevailed in this

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lawsuit; correct?
A Yes, sir.
Q What was the jury's verdict?
A $390,000, something like that. I don't remember the exact figure.
Q So, in excess of the $300,000 amount?
A Yes. I did not have a contingent fee agreement, so I was not really concerned about the amount.
Q You told me earlier that the parties agreed prior to the jury going out that if the jury returned with a verdict in excess of $300,000, that it would be a judgment against the note?
A Correct. $300,000 of it would be a judgment against the note and we would be entitled to interest and attorney's fees.
Q $300,000 would be for the note?
A Yes.
Q So, that is, the first $300,000 would satisfy the promissory note and whatever was in excess would be construed as interest and attorney's fees?

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A That's correct. It was $391,000. I wasn't too far off.
Q That was the amount that was awarded by the jury?
A That's right.
Q Was this award appealed?
A Yes.
Q Was there a bond executed pending appeal?
A No. There was an escrow agreement.
Q Between the two parties?
A Yes.
Q Pending the outcome of the appeal, an escrow was for $400,000, I take it?
A It was for an amount sufficient to cover the judgment interest and costs, anticipated interest and costs. I don't remember the exact amount.
Q Do you know what happened to this appeal?
A Yes. It was ultimately dismissed by the Court of Appeals.
Q Did you then exercise your right to the amount in the escrow?
A Well, actually, Mr. Roger Rowe in our

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office did, yes.
Q But you got however, the 390,000-something plus interest?
A We got whatever amount the escrow agreement provided we would get in the event an appeal was dismissed, and there was some left for Madison or for whoever.
Q How did you come to find out that the appeal had been dismissed?
A Well, actually I found it out because Mr. Web Hubbell called me to congratulate me on the fact that I had finally totally won the case.
Q Now, was Mr. Hubbell involved in the trial?
A No.
Q Did you communicate with Mr. Hubbell during the course of the trial?
A No.
Q And certainly you didn't talk about trial strategy or anything like that with Mr. Hubbell?
A No.
Q Did you talk with any of his partners regarding trial strategy?

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A No.
Q I take it that being such an accomplished litigator, you would keep that pretty close to your vest?
A Well, I don't know how accomplished I am, but I am pretty confident in my own opinion of trial strategy.
Q And I take it Mr. Hubbell did not offer any advice as to litigation strategy to you during the trial?
A He did not.
Q Did Mr. Hubbell attend the trial that you noticed?
A Not to my knowledge.
Q He testified that he attended the closing argument to hear the master speak, as I believe was his exact quote.
A I wouldn't really know who was in the courtroom other than the judge and the jury for the closing argument.
Q You usually focus on the judge and the jury rather than on the spectators?

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A That's right.
Q So you did not notice Mr. Hubbell?
A I did not.
Q Was Mr. Hubbell's phone call congratulating you on the final outcome of the case your first communication with Mr. Hubbell regarding the case?
A As far as I recall, yes.
Q Did you call to thank him after you retained Mr. Ward for referring Mr. Ward to you?
A No, I did not.
Q Did you subsequently come to find out that the RTC had removed the case to federal court?
A Yes, sir.
Q And was that the reason why the appeal was dismissed in state court?
A No, it wasn't. I don't recall that the court entered an order dismissing. My understanding was that it was dismissed because the appellate had never filed a brief and had gotten repeated continuances, and the Court of Appeals finally got tired of it sitting there and dismissed it.
Q It was dismissed for want of prosecution,

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from what you understand?
A I don't remember the exact language, but I assume that was the reason it was dismissed.
Q How did you come to find out the RTC had removed the case to federal court?
A They served a petition for removal on me, I'm sure.
Q Do you recall approximately when this was after you had collected a judgment on the Ward litigation on the case?
A No. It was before that.
Q It was before that?
A Yes. I'm trying to remember now. It seems to me that the FDIC removed it before the RTC came into existence, if my recollection is correct.
Q So, they removed it before the Court of Appeals dismissed the appeal in the case?
A Oh, yes, yes.
Q Now, how much time elapsed before the occasion that you recused yourself from the case? How much time between your collection of the judgment and the suggestion from the RTC that you disqualify

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from the case because of the conflict of interest with your law firm?
A That collection of judgment came after.
Q At that time you were not involved with the case, you were not representing Mr. Ward anymore?
A Mr. Ray was representing Mr. Ward at that time, and Mr. Rowe and I were named as the individuals who could invoke Mr. Ward's entitlement to the escrow money.
Q Mr. Ray wasn't named as the individual?
A Mr. Ray had nothing to do with the case at the time the escrow agreement was executed.
Q I see. At the time the escrow agreement was executed, you and Mr. Rowe were named as the individuals in this case, you at that time as representing Mr. Ward?
A Yes. We were named as the representatives of Mr. Ward in connection with that escrow agreement. I imagine Ms. Bartley was named as the representative of Madison.
Q It was under that capacity that you collected the proceeds from the escrow on behalf of

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Mr. Ward?
A That's correct.
Q You were not representing him in any other form or fashion?
A No, sir.
Q But the removal notice was served on you. Was that before or after the disqualification?
A I am positive in my own mind that the removal notice was served on me, because it was only after the removal that Mr. Ray became involved in the case. I was handling the defense of the appeal. The first indication -- that is not true. I knew that the FDIC had been involved for a long time. But the first time they came out on the front was when they filed a petition for removal, either they did or RTC did. I don't remember exactly.
Q So up until that petition for removal, there was no conflict obviously because the RTC was not a party to the case?
A That was my understanding. Of course, there wasn't anything going on.
Q You had already won the trial?

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A Notice of appeal had been filed, an appeal had been lodged in the Court of Appeals and there it was. We were waiting for a brief of appellates.
Q It was subsequent to this notice of removal that you were disqualified from the case and Mr. Ray took over?
A I'm sure that's correct. At least that's my recollection of it.
Q Other than the phone call that Mr. Hubbell placed to you to congratulate you on ultimately winning the appeal, did Mr. Hubbell have any more involvement in the case?
A Not to my knowledge.
Q Was that your last involvement with the case or Mr. Ward in a professional capacity?
A Yes.
Q What about your firm? Did your firm have any other involvement with the case or with Mr. Ward?
A Not to my knowledge.
Q In 1990, did your firm, you or your firm enter into an agreement with Mr. Ward that he would pay a or bond a final judgment the RTC may obtain

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against Mr. Ward in any litigation between Mr. Ward and the RTC?
A Yes.
Q Can you tell me the circumstances of that agreement?
A Well, the RTC was seeking to recoup the amount of the judgment from Mr. Ward.
Q The approximately $400,000 judgment that you or Mr. Rowe collected from the escrow?
A Right.
Q This was done in federal district court?
A Yes, that's correct. I think that the -- I didn't have anything to do, frankly, with that execution. I think it was executed to assure the firm that Mr. Ward acknowledged that it was his responsibility if the RTC got a judgment against him if he would pay it.
Q And you mentioned that your fee for the case was not on a contingency basis.
A Was not.
Q So your fees and the payment for your services did not depend on the $400,000?

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A No. We had already collected our fee.
Q And Mr. Rowe's collection of the $400,000 was only in service to Mr. Ward, I take it?
A Yes.
Q I take it the money went to Mr. Ward?
A Absolutely. We did not charge him any additional fee.
Q Therefore, the execution of the agreement was simply to indemnify the firm from whatever the RTC may recover from Mr. Ward with respect to that $400,000?
A It was, as I understood it, if the RTC contended that we had gotten the money and therefore we had some liability, that Mr. Ward would recognize that it was his liability and not ours.
Q Because you did not get any of the $400,000?
A We did not get any of it, that's right.
Q You said you weren't involved with the execution of that, for lack of a better word, an indemnification agreement. Was another member of your firm involved in that?

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A Yes, I'm sure he was. I would guess that our managing partner was.
Q Who was your managing partner at that time?
A Isaac Scott.
Q Is he still the managing partner?
A No, we have had a recent change.
Q Is Mr. Scott still with the firm?
A Oh, yes.
Q Did you know who represented Mr. Ward with respect to that agreement with your firm?
A I'm assuming nobody did, but I don't know. He may have asked Mr. Ray to look at it, probably did. Mr. Ray was representing him at the time.
Q You do not know of any involvement by Mr. Hubbell with respect to that agreement?
A No, none.
Q You mentioned that you know Mr. Hubbell more on a professional basis in Little Rock.
A That's true. As I say, he lived three or four doors down the street from me. He was active in the community, and I knew him as a lawyer and as a friend.

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Q So, both social and professional dealings with him?
A Yes, but more professional.
Q Let me just put a time frame on this. The trial concluded in 1988; correct?
A That's correct. The judgment was dated September 6. But I think we had some motions with regard to attorney fees for notes. I think the last day of the trial was the 30th, if my memory serves me.
Q Do you recall approximately when Mr. Ray took over -- did Mr. Ray take over your representation of Mr. Ward immediately upon your recusal from the case?
A Yes.
Q Do you recall approximately when that was?
A Again, it would have had to have been sometime in 1989.
Q Sometime in 1989. Was it late 1989?
A No. I would have thought it was in the spring.
Q The spring of 1989.

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A You have six months to lodge an appeal in Arkansas after the notice of appeal, which makes seven months from the date of judgment. So, the judgment was dated September 6th. The appeal would have had to have been lodged within seven months of that date, and the appeal had been lodged before the petition for removal was filed.

When the petition for removal was filed, it is my best recollection right about that time when we recused.

Q It was approximately, if one looks back to the district court record in Arkansas relating to the RTC case against Madison relating to the Madison matter, it was approximately the time of the removal of the Ward v. Madison Guaranty litigation?

A That's correct.

Q Did you continue your friendship with Mr. Hubbell when he came to Washington as Associate Attorney General?

A Yes, I did.

Q Again, was this primarily social or was it also professional?

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A It was entirely social. I had lunch with Web one time when I was up here. I think I was up here for a meeting.

Q Do you recall when approximately that was?

A No. It would have had to have been in 1993. I know that much. I think I was attending a meeting of the American College of Trial Lawyers. I called Web and took him to lunch.

Q You had one lunch with Mr. Web Hubbell?

A That's my recollection.

Q Did you call Mr. Hubbell from time to time?

A I can't remember any calls to Mr. Hubbell other than that call while I was in Washington. I could have. It wouldn't have been anything out of the ordinary if I had.

Q Do you recall if your meeting with Mr. Hubbell, your ACTL meeting and your trip to Washington was approximately in the summer of 1993?

A It sounds about right, yes.

Q You would have placed calls to Mr. Hubbell in order to set up the lunch, I presume?

A That's my recollection.

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Q The reason I ask is that we have records indicating that you left messages for Judge Hubbell on June 8th, twice, of 1993. Would that have been associated with that lunch?
A I assume so, yes. That time frame sounds right.
Q Does that reflect your recollection as to the approximate time frame of the meeting?
A I believe that that meeting was in September.
Q You believe that meeting was in September?
A Are those long-distance calls?
Q Yes, they were. Your return phone call was 371-0808.
A So that would have been calls from Little Rock.
Q You called Mr. Hubbell to arrange the lunch when you were in town; correct?
A I beg your pardon?
Q You called Mr. Hubbell to arrange lunch, you were already in town?
A I was in Washington, yes. My best

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recollection was that that was -- when did Vince commit suicide? July of 1993?
Q July 20, 1993.
A This meeting that I was here for was after that.
Q Do you recall to what purpose did you call Mr. Hubbell with respect to those two phone calls, the records of which I am handing you?
A Well, two on June 8th.
Q Yes.
A I guess I called him and when he didn't call back, I called him again. I do not have any recollection of these.
Q Were you working on any case that may have prompted you to call Mr. Hubbell?
A I can't conceive of anything.
Q We have a record of you -- I'm sorry.
A I'm going to correct myself. I was working on a case that involved Mr. Hubbell.
Q What case was that?
A That was a case that he had tried for POM, a parking meter company run by Mr. Skeeter Ward.

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Q What was your affiliation with that case?
A I was representing POM.
Q Basically you took over Mr. Hubbell's representation of POM in the matter?
A Not quite accurate. The matter that Mr. Hubbell was representing them had been concluded, and I was not involved in that matter. But after Mr. Hubbell came to Washington, Mr. Skeeter Ward contacted me with whatever problems he had.
Q Mr. Skeeter Ward is Mr. Seth Ward's son?
A That's correct.
Q When you say with whatever matter that he had, were they specific cases that he wanted you to take a look at or was it more of a general counsel position?
A I tried a lawsuit alleging violation by a competitor of a patent and lost it.
Q Do you recall approximately when this was? It must have been a very rare occasion that you lost.
A Oh -- no, not all that rare. It was -- it could have been '94 or '93, in that area.

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Q Was that after Vince Foster had passed away?
A I don't recall. I think very probably it was after, but I really don't know for sure.
Q When did you start your representation of POM?
A I couldn't tell you that with any exactness. It was after Web left and I guess they decided they didn't want to go to the firm, to the Rose firm. It was sometime after that.
Q Do you remember the first matter that you handled for Mr. Skeeter Ward and POM?
A I believe that the patent infringement was the first one.
Q Was the first matter. So, again, do you recall whether this June 8, these two calls made on June 8, 1993 were related to your representation of POM?
A I suspect that they were.
Q You suspect that they were. Let me show you now a copy of another message pad reflecting a call from you to Judge Hubbell dated July 27, 1993.

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To put the one event in context, July 20th was when Vince Foster passed away.

A I would be almost positive that would be in connection with Foster's suicide.

Q You called to express your condolences to Judge Hubbell?

A I would certainly think that's what that was.

Q Do you recall making that call to Mr. Hubbell?

A I don't have an independent recollection. But Vince Foster was a close friend of mine. I know I was horrified. I assume that -- I just assume that was what it was, but I don't really know.

Q Did you put in a call to the First Lady or President Clinton?

A I could have called the First Lady. I don't remember ever putting in a call to President Clinton.

Q Did you know the First Lady then?

A Very well, yes.

Q Let me move to October of 1993 and ask

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whether you have any recollection of calling Judge Hubbell then and, if so, regarding what.

A I don't have any independent recollection. It could have been in connection with the POM business.

Q You did talk from time to time with Mr. Hubbell regarding POM?

A Yes, I did.

Q On the basis that he had previously represented POM?

A Well, actually, it was on the basis of a dispute with regard to fee.

Q Mr. Hubbell's fees for previous representation of POM?

A Correct.

Q You were representing POM in that capacity?

A That's correct.

Q The reason I ask is that -- let me show you these two records of phone calls on the 8th of October.

A Yes. I usually call somebody and leave a message and they don't call me back and I call them

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again.
Q I'm surprised it happens to you. It happens to me all the time, but I understand why it happens to me.
That doesn't refresh your recollection?
A Not as to anything specific, no.
Q Let me ask you this: Do you recall any specific conversations you had with Mr. Hubbell other than the phone call you placed to Mr. Hubbell to arrange the lunch while you were in town?
A I recall that I talked to Mr. Hubbell on several occasions with regard to expert witnesses who had testified in the lawsuit that Mr. Hubbell handled for POM and had not been paid. They were looking to POM to pay them. I was conversing with Mr. Hubbell about that.
Q And it was your understanding that Mr. Hubbell or at least the Rose Law Firm was to pay the expert witnesses?
MR. COLE: Excuse me. I would like to interject here, if I could, Mr. Dinh. Mr. Jennings certainly doesn't need any help from me, but while I

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see perhaps the relevance of these inquiries in establishing that some of these contacts with Mr. Hubbell don't pertain to the matters that are specified in Senate Resolution 120, I don't see the point of any detailed inquiry into POM matters or other legal matters that Mr. Jennings or Mr. Hubbell may have been handling for the Wards. I just note that because I see a possible nexus there, but at some point I think we go beyond that in the questions.
MR. DINH: Thank you for that, Lance. I will keep note of that. I just wanted to bring the loop fully in circle with my understanding as to why you were communicating with Mr. Hubbell.
BY MR. DINH:
Q That is your understanding was that POM was not to pay the expert witnesses with respect to this prior trial?
A We were very vigorously resisting paying them, yes.
Q It was your understanding that Mr. Hubbell or the Rose Law Firm was to pay the witnesses?

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A Well, I was just talking to Web about the fact that his father-in-law didn't think he ought to pay that.
Q And was the matter finally resolved?
A I really don't know. I don't know how it came out.
Q I'm sorry?
A I don't know how it came out. I know POM didn't pay it.
Q Do you still represent POM?
A No.
Q When did your representation cease?
A Oh, I think we finished up whatever we were doing maybe '94, '95.
Q Was the patent infringement matter your last matter that you handled for POM?
A I couldn't be sure about that. We had one of our lawyers who is a patent attorney was also doing some work for POM. I don't have a sequence of events.
Q In any event, you do not now represent POM?
A I do not.

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Q Was it in early 1995, if you can put a time frame on it?
A I couldn't. But it has been well over a year, I know.
Q Actually, I found it. I'm going to show you a record of phone call you made to Mr. Hubbell dated April 22, 1994. There you were calling from the Willard Hotel. It is the top corner here.
A Okay. What is the date there?
Q It is April 22nd. It is 4:22. You can't really read it very well.
A That's '94?
Q 1994, I believe, yes.
A That's bound to have been -- yes. That's when I asked to have lunch with him.
Q That's consistent with your earlier testimony you called him from town?
A Yes.
Q Did you stay at the Willard when you were in town for the American College of Trial Lawyers?
A I stay at the Hay-Adams, the Willard and the JH Marriott, and where I stayed on that

particular trip, I assume I was at the Willard.
Q You mentioned earlier that you know the First Lady. In what context do you know the First Lady?
A Well, I litigated against her, and I have considered her a friend.
Q Do you know the President?
A Yes.
Q Do you consider him a friend also?
A Absolutely.
Q But you are better friends with the First Lady than the President?
A Well, I don't know --
Q Not to ask you to take sides or pick favorites here.
A I don't know that that is true. Mr. Clinton was a lawyer in our office for a year. I knew him I guess from the time he was Attorney General. When you have a lawyer who works for you in your office, you get to be friends.
Q You said that you started knowing Mr. Clinton when he was then Attorney General, which

was around '78-79?
A Yes.
Q Was that approximately the same time that you got to know Mrs. Clinton or was it earlier or later?
A I expect I didn't know her that well at that point.
Q When did you forge a friendship with Mrs. Clinton?
A I couldn't give you a date to save my life. I spent a week in depositions in London with her in one matter. I have tried a number of cases with her.
Q From this professional relationship, you developed into a friendship with her and the President?
A Yes, certainly.
Q Would she take a phone call from you now?
A I would think so.
Q And likewise, the President?
A The President called me on one occasion, but I don't remember ever calling him.

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Q So, you never had occasion to test it out?
A No. That's right.
Q But you have called Mrs. Clinton from time to time?
A I would say I probably have, yes.
Q How about a meeting? Can you call and set up lunch with the First Lady as you did with Mr. Hubbell when you are in town?
A I have never tried to set up lunch with her. I have met with her.
Q Have you met with her at the White House?
A Yes.
Q How many times have you met with her at the White House?
A I recall two.
Q This was for the purpose of meeting with Mrs. Clinton?
A I went to the White House to meet with Mrs. Clinton, yes.
Q Have you been to the White House since President Clinton has been President for any other purpose except for visiting with Mrs. Clinton?

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A Yes.
Q And can you tell me how many times you have done that?
A The best of my recollection is that on one other occasion I visited the White House and met with Mr. Bruce Lindsey.
Q Mr. Bruce Lindsey likewise you consider a friend?
A He was a former partner of mine. His father was my partner and we practiced law together for over 40 years.
Q His father and you practiced law together for over 40 years?
A Yes. Bruce hadn't been around long enough.
Q Can I ask you approximately when these visits were?
A The visit with Bruce was before Vince Foster's death, because I saw Vince there.
Q Approximately how long before?
A I couldn't tell you to save my life.
Q Two months, three months?

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A Could have been.
Q And the two visits with Mrs. Clinton?
A Yes.
Q When were those?
A I assume that one of them was in 1995. There was one prior to that time.
Q How much prior? Was it around the time of Mr. Foster's death or was it subsequent or before?
A I think it was subsequent.
Q It was after July 1993?
A Yes.
Q What was the purpose of that visit?
A Primarily social.
Q Any other reason other than a social reason?
A No. I wanted to see the White House.
Q So primarily social but also personal?
A Yes.
Q Was that the same time you were in town for the ACTL conference?
A I don't know that. I really and truly don't. It was on some occasion when I was in

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Washington for some reason.
Q But you did not come to Washington in order to meet with Mrs. Clinton?
A I didn't make a special trip to Washington to meet with her, as far as I can recall.
Q Your visit with her at that particular time was primarily social?
A Yes.
Q You didn't discuss any case or any other professional matters with her?
A No.
Q And I take it you did not discuss your representation of Mr. Ward with her?
A No, definitely did not.
Q Let me focus now on your visit to the White House that you said occurred in 1995.
A That's what I have been told by you. I think that is probably right.
Q Do you recall this visit this last year to Mrs. Clinton?
A I recall a visit that probably was in 1995.

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Q Do you recall it was approximately August of 1995?
A That sounds about right.
Q Maybe August 10 of 1995?
A I wouldn't be surprised.
Q Your visit to the White House on this particular occasion was to see Mrs. Clinton?
A Yes.
Q And do you recall what the purpose of your visit with Mrs. Clinton was?
A Yes, very clearly.
Q Okay.
A Dave Kendall got in touch with me through one of my partners, and apparently there was concern that there was going to be some kind of publication contending that Mrs. Clinton was really not a lawyer.

Mr. Kendall asked me if I had any experience with Mrs. Clinton as a lawyer, and I told him that I had. As a result of that discussion, as I recall, I talked to other people who had or might have had contact with Mrs. Clinton as a lawyer, and I

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refreshed my recollection concerning at least five occasions in which I have appeared in court at the same time Mrs. Clinton did.

Apparently Mr. Kendall thought that it was sufficiently important for me to visit personally with Mrs. Clinton about that matter, and I did so.

Q So, Mr. Kendall contacted one of your partners. Do you remember which partner it was?
A My best guess is it was John Tisdale.
Q Did Mr. Kendall request specifically your recollection or did he ask Mr. Tisdale to find a witness for her professional abilities?
A I do not know the answer to that.
Q But Mr. Tisdale approached you?
A Mr. Tisdale knew that I had business on the other side from Mrs. Clinton, and he approached me.
Q After that, did you have any direct conversation with Mr. Kendall?
A Yes.
Q And subsequent to your conversation with Mr. Kendall was when you went out and collected witnesses and refreshed your memory with respect to

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the five matters?
A Well, I didn't exactly go out. I made telephone calls, and I did refresh my recollection about cases that I had with her.
Q And then you called Mr. Kendall back, I take it?
A Yes.
Q Based on your statements that you made to Mr. Kendall, he requested that you see Mrs. Clinton personally?
A Yes.
Q And so he asked that you come to Washington?
A I guess. I don't know whether that was the only business I had in Washington or not. I really don't recall whether I came for that sole purpose of seeing Mrs. Clinton.
Q One of the purposes before you left was to see Mrs. Clinton?
A Absolutely. Arrangements had been made for me.
Q Arrangements by Mr. Kendall?

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A Yes.
Q Do you recall what publication?
A No. Somebody is going to write a book, I think. I don't know. That's the impression I got.
Q Did you talk to this person who was going to write a book?
A No. All I had was a rumor that people were going to attack Mrs. Clinton on her ability and her actual practice as a lawyer, and they would like to be prepared to refute any contention that she was not really a lawyer. I don't know who was going to publish it or how or what they --
Q So you collected materials to help prepare Mr. Kendall and Mrs. Clinton to refute this charge?
A I collected information.
Q I take it you have high esteem for Mrs. Clinton's legal abilities?
A She is a tough litigator.
Q That is probably the best compliment one gets from opposing counsel.
And what sort of information did you gather? Were they in the form of personal

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testimonials or names or cases?
A No. I just called people and said you have had experience with Hillary, what kind of lawyer is she. I had several of them say she is A-1.
Q Did you give the names of the people you contacted to Mrs. Clinton or Mr. Kendall?
A I gave them to Mr. Kendall and I'm sure I also gave them to Mrs. Clinton.
Q And in your meeting with Mrs. Clinton, you relayed this information that so-and-so and so-and-so thinks you are an A-1 lawyer?
A Yes.
Q And you gave them a list of names?
A I think I had a little memorandum, but I'm not positive about that.
Q I presume that memorandum also included the five matters which you personally had in front of Mrs. Clinton?
A Yes. Mrs. Clinton and I visited and relived those trials. She won two and I won one. So, I would have to say she was an able litigator.
Q The other two matters that --

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A They were not adversarial. I was just in court when she was there. I saw her in court and saw how she performed, although I was not her adversary.
Q You said you relived these, I guess a lawyer's war stories.
A That's correct.
Q How long of a visit was this?
A I would be strictly guessing, but I would guess 20 minutes to half an hour at most.
Q Let me ask you to back up a little bit with respect to this particular visit. Mr. Kendall made arrangements for you to come to the White House and meet with Mrs. Clinton. Did somebody from his office come with you or did Mr. Kendall come with you?
A Mr. Kendall came with me.
Q Do you remember when you came to the White House who came down to greet you two?
A No.
Q But it wasn't Mrs. Clinton?
A I don't think so. Mr. Kendall apparently knew his way around the White House pretty well.
Q And so after you were signed in at the

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gate, Mr. Kendall led you to your meeting place. Do you recall where the meeting place was?

A I have a recollection that I was told that the room we were in was what President Roosevelt called the "war room." I just have an impression that that's what I was told.

Q Do you recall what floor it was on?

A No. I don't remember going up any stairs.

Q You don't remember going up the stairs?

A No.

Q Elevators?

A I don't remember.

Q Did you enter through the entrance that is the main White House entrance that is on the north side of the White House off Pennsylvania Avenue?

A Pennsylvania Avenue, yes.

Q Was anybody else present at the meeting besides you and Mr. Kendall?

A No.

Q And the meeting lasted approximately 20 to 30 minutes?

A That's my best recollection.

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Q After the meeting concluded, did you and Mr. Kendall leave together?

A Yes.

Q Did you leave the White House also together?

A Yes.

Q Other than discussing the three cases that you had personal involvement with with Mrs. Clinton, what else did you talk about?

A Oh, I guess we just had a social visit. I don't know of anything else.

Q How things are in Arkansas and how things are in Washington?

A That sort of thing.

Q Did you talk at all about the investigation that was going on here at the Senate?

A Not to my recollection.

Q Did she initiate any such conversation or comment?

A Oh, we could have had a conversation of me saying I know you are getting hit on but keep a stiff upper lip or something like that. But I don't

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remember any specific conversation about the investigation.
Q Certainly no substantive discussion?
A No.
Q Did you discuss at all your involvement with Mr. Ward with respect to the Madison Guaranty matter?
A No.
Q Have you ever had any such discussion with Mrs. Clinton?
A Not to my knowledge.
Q Have you ever had any discussion with Mrs. Clinton regarding Seth Ward in general?
A I can't recall any.
Q How about any discussions with Mrs. Clinton regarding Madison Guaranty Savings & Loan Association?
A I can't remember ever talking to her about Madison on any occasion.
Q To Mr. Kendall on the same subjects?
A No. I never talked to him about much.
Q Other than this one involvement with

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Mr. Kendall, have you had other involvement with Mr. Kendall?
A I had one other occasion when he came to Little Rock and wanted to talk to Mr. Seth Ward.
Q Do you recall approximately when this was?
A In the fall of '95.
Q In the fall of 1995. Was it before or after your visit to the White House?
A After.
Q After your visit to the White House. So, he called you up and asked whether he could meet Mr. Ward?
A Yes.
Q Because he knew that you had previously represented Mr. Ward?
A He asked me if I could make arrangements for him to talk to Mr. Ward, and I said I see Mr. Ward frequently and I will certainly ask him.
Q Your involvement at this time, I take it, was not as Mr. Ward's attorney but as a friend?
A That's correct.
Q You are not Mr. Ward's attorney at this

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point?
A I am not.
Q And not even in the fall of 1995?
A Excuse me?
Q And not even in the fall of 1995?
A I was not, no.
Q Do you know if Mr. Ward subsequently talked with Mr. Kendall?
A Yes, he did.
Q Approximately how long after Mr. Kendall approached you?
A I don't know. It was fairly soon, I presume.
Q Were you there at that meeting?
A Yes.
Q Do you recall approximately how long was this meeting?
A Half an hour maybe.
Q And this was taking place in Little Rock?
A Yes.
Q Was it in your offices?
A Yes.

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Q And what in substance was the nature of the conversation between Mr. Ward and Mr. Kendall?
A Basically, it was whether or not Mr. Ward had any knowledge of any participation by Mrs. Clinton in the Madison Guaranty business, and Mr. Ward just said he didn't know, he didn't recall.
Q Did not recall. Okay.
Did Mr. Kendall ask Mr. Ward specifically about the IDC transactions or the Castle Grande transaction?
A No, I don't recall that he did.
Q Did he talk to you regarding that case?
A No.
Q The meeting lasted for approximately half an hour?
A That's my recollection.
Q Besides his inquiry into whether Mr. Ward had any recollection of Mrs. Clinton representing Madison Guaranty, what else did you talk about?
A That was all that I recall.
Q And Mr. Ward was not able to be of help on this particular matter?

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A Mr. Ward said he just did not have any recollection. Mr. Ward is not quite as old as I am, but he is 75 or 76. He has had very serious health problems, and I would say that as far as memory goes, that Mr. Ward is not -- Mr. Ward doesn't have the best memory in the world. All he said was he just didn't recall.

Q Did Mr. Kendall ask Mr. Ward whether he had any documents that may have pertained to Madison Guaranty or Mrs. Clinton's work for Madison Guaranty?

A I don't recall him speaking about any documents.

Q And I take it that Mr. Ward did not offer any such documents?

A That's right.

Q He didn't bring any documents to the meeting?

A No.

Q Did Mr. Kendall show him any documents to try to refresh his memory?

A I think he might have.

Q What sort of documents did he show him?

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A I think he showed him some time records.

Q Do you recall what these time records looked like?

A I didn't even look at them.

Q Do you recall like what sort of paper it was on? Was it on a large sheet of paper? Was it on an 8-1/2 by 11?

A I don't recall at all.

Q But he did show Mr. Ward to see whether Mr. Ward recalled the specific instances of representation?

A I think he referred to specific time records, maybe two, three or so, and asked Mr. Ward if he recalled those, and he said no, I just don't have any recollection.

Q He just doesn't remember those events?

A No.

Q Of course, this would go back to 1985 and '86, so it is quite a long time ago. Understandable.

A Yes. Mr. Ward fell out of a second-story window and damn near killed himself after that.

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Q "After that" meaning after 1985 --
A After the trial.
Q After the 1988 trial?
A After 1988, yes.
Q Did Mr. Kendall show Mr. Ward any other documents that you can recall?
A None that I recall. I'm reasonably certain he did not.
Q You stated this was in the fall of 1995 and it was after your visit to Mrs. Clinton.
A Yes. It was after August.
Q It was after August. Your visit was August 10th. Can you recall whether it was before or after Thanksgiving?
A No, not really.
Q But it was certainly before Christmas?
A Yes, it was before Christmas.
Q So, it was sometime between August and December of 1995?
A Yes, that would be my recollection, yes.
Q But you can't pin it with respect to Thanksgiving one way or the other?

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A No.
Q Did they talk about anything else other than Mrs. Clinton's representation of Madison Guaranty?
A Not that I recall.
Q After this meeting, did Mr. Kendall subsequently contact you or, to your knowledge, Mr. Ward to follow up on the meeting?
A To my knowledge, he did not. I'm reasonably certain he didn't contact Mr. Ward again, and I don't recall any contact with me.
Q Other than this one other occasion when you -- other than when he contacted you regarding the First Lady and when he contacted you about Mr. Ward, did you have any other occasion to talk to Mr. Kendall?
A Mr. Kendall?
Q Yes.
A I don't think so. Mr. Kendall is a partner in Williams & Connolly. Paul Connolly was a very close personal friend of mine. We may have had a conversation about that, but I can't recall it.

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Q It was relating to your friend and obviously his predecessor at the firm?
A Yes.
Q A very famous and able lawyer, as a matter of fact, for that matter. How about Mr. Kendall's partner, Mr. Robert Barnett? Do you know who he is?
A I don't believe I do.
Q I take it you have not had any contact with Mr. Barnett not relating to Madison or the First Lady or the President?
A No.
Q Let me turn back now to your August 10, 1995 meeting with Mrs. Clinton. While you were at the White House, did anybody give you a tour?
A No.
Q You just came in for the meeting and you came out after the meeting?
A I have had a small tour when I visited Bruce Lindsey. But on that occasion, there was no tour.
Q A small tour, 15 minutes or so?
A Well, we went to Mack McLarty's office.

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Mack is a friend of mine. We visited with him and had lunch.
Q In the White House?
A In the White House, yes, with Bruce. That's where I -- I can't remember whether Vince sat at the table or just came by and spoke. I think he just came by and spoke.
Q That was mostly over in the west wing of the White House where all the offices are near the Oval Office?
A It is where the offices are. By the way, I saw the Oval Office. Bruce's office was right next to the Oval Office. He took me around and I did see the Oval Office.
Q Mr. McLarty's office was right next to the Oval Office?
A It seems to me he was in the -- as close to the Oval Office as Bruce.
Q I remember this now. You did not see the residence itself, the executive residence --
A No.
Q -- where the bedrooms are and things like

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that?
A No.
Q But with respect to this August 10, 1995 meeting, you came in with Mr. Kendall and you left with Mr. Kendall?
A That's correct.
Q Did you meet Mr. Kendall at Williams & Connolly?
A I met him at his office.
Q Over at Williams & Connolly?
A Yes.
Q And did you have a conversation with Mr. Kendall before you left for the White House?
A Oh, sure. I told him what I had and I probably showed him a memo, and I may have given him a memo; I don't recall.
Q You were basically giving him the same information that you gave on the phone earlier and also the information you were about to give to Mrs. Clinton?
A Right.
Q Did you have any conversation at that time

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regarding Mr. Ward?
A No.
Q So, am I correct -- did you have any conversation with Mr. Kendall prior to your coming to Washington regarding Mr. Ward?
A No.
Q So, am I correct to state that other than your one visit with Mr. Kendall in Little Rock in the fall of 1995, you have had no other conversations, contacts or meetings with Mr. Kendall regarding Mr. Ward?
A That's the only occasion that Mr. Ward's name was mentioned so far as I know.
Q Between you and Mr. Kendall?
A Yes.
Q And the same with respect to Madison Guaranty?
A True.
Q And I'm sure you said this before, but just to make doubly sure, you stated that at no time during this visit with Mr. Kendall and then subsequently with Mrs. Clinton did you talk about

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Mr. Ward or Madison?
A That's true.
Q It was more generally about her ability as a lawyer and more specifically as a litigator?
A That was the reason for the visit. That's what we talked about.
Q Did you meet with anybody else at the White House who works at the White House during this visit to meet with Mrs. Clinton?
A In August of '95?
Q Yes.
A No.
Q Even outside of your visit to the White House, you didn't talk to anybody while you were in Washington?
A While I was in Washington?
Q Yes.
A I might have talked to people while I was in Washington. I don't recall any specific names.
Q Did you talk to Bruce Lindsey during this trip?
A No, I didn't see him.

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Q Did you talk to Mack McLarty?
A No, I didn't see him.
Q Did you talk to anybody else who may have been in Arkansas?
A I don't think so, no.
Q Do you know Betsey Wright?
A Yes.
Q Have you talked to her about Mr. Ward?
A I haven't seen Betsey Wright since before the campaign of '92.
Q And you haven't talked to her?
A No.
MR. COLE: Viet, if this is a convenient point before we go into another line of inquiry, could we take a break?
MR. DINH: Yes.
(Recess.)
BY MR. DINH:
Q Other than this one occasion in which you attended the meeting between Mr. Ward and Mr. Kendall, have you had any other conversations with Mr. Ward regarding Mrs. Clinton's representation

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of Madison Guaranty Savings & Loan Association?
A Well, I would hate to say that I didn't have any conversations. Whatever conversations I had were along the line of, hey, this has been eight years ago, I don't remember all these things.
I see Mr. Ward almost daily. We play gin rummy together. So, yes, we have probably talked about it. But that's the gist of what we talked about.
Q These conversations would have taken place, I take it, within the last six months or so?
A Yes.
Q Did you have any conversations with Mr. Ward relating to the subject prior to your meeting with Mr. Kendall?
A I don't recall any.
Q But in essence it was Mr. Ward repeating that he did not recall the specifics of her representation?
A That's right.
Q Has anybody else other than Mr. Kendall contacted you regarding Mr. Ward?

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A Well, I have had calls -- I had a call from your office saying they wanted to take Mr. Ward's deposition in Little Rock. I had a call earlier about him coming to Washington and advised that he had a doctor's certificate that he should not travel to Washington.
Q That was from our committee?
A That was from your committee. Other than that I don't remember.
Q So, nobody else associated with the White House or the Clinton campaign that you know of --
A No.
Q -- other than Mr. Kendall, obviously?
A No, nobody.
Q Did you ever talk to Mr. Lindsey regarding your representation of Mr. Ward?
A No.
Q Mr. McLarty?
A No.
Q And other than the POM matter, with Mr. Hubbell?
A No, not anything that I can recall. Let me

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correct that.
Q Okay.
A At the time there was discussion of settlement with the RTC, Mr. Ray talked to me and talked to Mr. Hubbell about what he thought was the effect of this litigation upon Mr. Ward in his condition and wouldn't it be better to get the thing behind the settlement, and he was talking to me because I had a lot of background and talking to Mr. Hubbell because he was his son-in-law.
Q Was this at a joint meeting?
A The three of us met. Mr. Ray asked us to come to his office.
Q When you say "settlement with the RTC," this is Mr. Ward's settlement with the RTC?
A That's correct.
Q Subsequent to the removal of the suit --
A Which was ultimately entered into.
Q Based on this meeting, the settlement was ultimately entered into?
A I don't know if it was based on the meeting. Subsequent to the meeting, the settlement

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was entered into.
Q Did you agree with the proposed settlement with the RTC? Did your counsel?
A I did not involve myself in the amount. I just agreed that with the stress that Seth was under and in his physical condition and with the amount of attorney fees he was running up, he would probably be a lot better off to get out of the thing.
Q I take it this talk occurred after Mr. Ward's accident?
A Oh, yes.
Q What was Mr. Hubbell's view of the settlement?
A My recollection is he said that he was distressed by Seth's condition and thought that it would be very helpful to get through with the litigation.
Q Did he get into the amount of the settlement or anything like that?
A I don't recall that he did, no. At that time I don't know that there was any amount that was on the table. It was just a proposition.

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Q Was this a brief meeting?
A Very brief.
Q Half an hour?
A Probably not that long.
Q It was subsequent to this that the settlement was ultimately entered into with the RTC?
A There was a settlement entered into after that, yes.
Q Did you have any conversations with Mr. Hubbell about Mrs. Clinton's representation of Madison Guaranty?
A No.
Q How about with anybody else currently or formerly at the Rose Law Firm?
A Never.
Q Do you know anybody in Mrs. Clinton's staff besides Mr. Kendall? Have you had any contact with anybody else in Mrs. Clinton's staff?
A I have had contact with Carolyn Huber.
Q In what capacity and what circumstances?
A Well, it is really kind of silly. I have a lawyer friend in New York whose wife is a cat fancier

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and owns cats, and she is taken with Socks. She wanted me to get in touch with Mrs. Clinton and find out if she could send a catnip pillow to Socks.

On the basis of that request, I called and talked to Carolyn Huber, whom I did not know, and asked her if she would pass on to the First Lady that I had a friend who wanted to give Socks a catnip pillow.

Q Just to round out the story, I know I am exceeding scope here, Lance. Was a pillow sent to Socks?
A Actually, I hand delivered it.
Q This was in the 1995 meeting?
A No. This was on the occasion when I visited with Bruce and McLarty. I handed it to Mr. McLarty and later learned that he delivered it. In fact, my friend got a nice thank you note from Socks.
Q Next time I'm over at the White House I will make sure I see whether Socks is indeed sleeping on that pillow.

You mentioned you did not know Mrs. Huber

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before that phone call?
A No, I did not.
Q You did not know her when she was at the Rose Law Firm?
A No, I did not.
Q Other than this one contact with Ms. Huber, have you had any other subsequent contacts with her?
A No.
Q What prompted your discussion with Ms. Huber?
A I was calling for the First Lady and instead got Mrs. Huber. Instead of asking to speak to Mrs. Clinton, I asked her to handle it for me, Ms. Huber, and she said sure.
Q Was she the person who picked up the phone?
A No. I think somebody told me that Ms. Huber was the person to talk to to get to Mrs. Clinton, if that's my recollection.
Q And I take it that during the course of this conversation, that Mrs. Huber did not ask you or talk to you about Seth Ward --
A No.

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Q -- or Mrs. Clinton's representation of Madison Guaranty?
A No, not at all.
Q It was restricted simply to the pillow for Socks?
A That's right.
Q Have you had any other contact with any member of Mrs. Clinton's staff?
A No.
Q Do you know who Maggie Williams is?
A No.
Q You mentioned that Mr. Kendall showed Mr. Ward some documents that it appeared to you reflected some billing records.
A That is what appeared to me. I did not examine the documents. I don't know what documents they were. But I do recall that he had some what looked to me to be billing records.
Q Of course, you would know billing records, being a private lawyer yourself?
A They didn't look like our billing records. But it just looked like they were time records.

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That's what they looked like to me.
Q Actual time sheets or time records?
A I believe they were a computer printout but I'm not sure.
Q Do you remember what size they were approximately?
A No.
Q You said there were five or six sheets?
A I don't remember how many sheets.
Q It wasn't a bundle?
A No, it was not a bundle.
Q Did it look to you to be anything like this?
A I couldn't really say. No, I don't think this looks like it.
Q Were they approximately this size or smaller?
A I couldn't tell you to save my life.
Q I know this may be implicit in your answer to some of my earlier questions. Let me try to make it explicit. You have never had a tour of or have never been in the White House residence itself?

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A Not to my knowledge. If I was in the White House residence on August the whatever of '95, then I was, but I did not recognize it as being a residence. There certainly was not any bedroom or anything.
Q It was in a room which you understood to be President Roosevelt's war room?
A That's what I understood.
Q Whether that was officially part of the residence or not, you have no idea?
A That's correct.
MR. DINH: I have nothing further.
EXAMINATION
BY MR. COLE:
Q Mr. Jennings, as I indicated earlier, my name is Lance Cole. I am one of the Democratic counsel to the Whitewater Committee.
Mr. Dinh has been very thorough in his questioning, and you have been both very complete and very clear in your answers, so I am going to try to be as brief as I can and hopefully not take a great deal more of your time.

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I do have some questions that go back to some of the areas that Mr. Dinh has already covered with you.

In particular, I wanted to ask you a bit more about your recollection of what you understood from Mr. Ward about the preparation of the second letter agreement between Ward and McDougal on behalf of Madison Guaranty or Madison Financial, the documents that were dated September 24, 1985 that Mr. Dinh showed you earlier.

Am I correct in understanding that your recollection is that Mr. Ward told you or you understood from Mr. Ward that the second of those two letter agreements was prepared a day or two after the first agreement?

A Mr. Ward has told me that there were three agreements, that the first one did not correctly state the oral agreement, that a second one was drafted, and I believe that that second one left out the Holman Acres part of the agreement. Then the one that included the Holman Acres part of the agreement was actually typed and signed a couple of days later

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than the first one, a day or two later.

Now, that's my recollection what Mr. Ward said, and what he was doing was trying to get on paper exactly what he and Mr. McDougal had agreed to. With the third one they finally got it, and they both put their names on it.

Q Was it your understanding from Mr. Ward that those were discussions between Mr. McDougal and Mr. Ward and that they or perhaps Mr. McDougal's secretary prepared the letter agreements? Do you have any understanding as to who prepared them?

A I understood from Mr. Ward that the first one was prepared by Mr. McDougal's secretary.

Q So that would mean that Mr. McDougal either dictated it or prepared a draft and his secretary typed it?

A Mr. Ward, I believe, dictated all of the agreements. That's my understanding.

Q So, in your discussions with Mr. Ward, it was your understanding that neither he nor Mr. McDougal obtained any assistance from lawyers in preparing these letter agreements?

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A That was my very clear understanding, that the preparation of the agreements, the language of the agreements was, as far as Mr. Ward knew, not the product of any lawyer.
Q And Mr. Ward was familiar with the preparation of all three, so if lawyers were involved, he would have been aware of that?
A Absolutely.
Q And I think this is clear, but Mr. Ward never indicated to you that Mr. Hubbell assisted him in the preparation of those letter agreements?
A He indicated to me that Mr. Hubbell's secretary typed I think just one of the agreements.
Q And do you recall which one that was?
A I think it was the third one or the one that included the Holman Acres.
Q And to be as clear as we can, recognizing that this was many years ago, all three agreements were prepared over the space of a few days around September 24th?
A That's correct.
Q That's your best understanding?

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A Yes.
Q And Mr. Ward was quite clear on that point?
A Yes.
Q So, the third agreement was not prepared weeks or months later and then backdated?
A Absolutely not.
Q And other than the involvement of Mr. Hubbell's secretary, did Mr. Ward indicate that anyone else at the Rose Law Firm, and in particular Mrs. Clinton, played any role in the preparation of these agreements?
A He did not.
Q In fact, it was clear to you from your discussions with Mr. Ward that that had not been the case?
A Absolutely clear.
Q Turning then to the later option agreement, the document from May 1986 that Mr. Dinh showed you. Can you recall what Mr. Ward told you about the preparation of that document?
A I don't remember him ever telling me anything about it. The document was there, it was

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signed, and I don't recall ever having any interest in the preparation of it. I don't recall him telling me anything about who prepared it.

Q But it was your understanding, I believe you testified, that that option agreement was to cover the same property that was referenced in the September 24th letters, the Holman Acres property?

A That was certainly my understanding and the difference in a description of something I hadn't even noticed until today.

Q I apologize if you answered this question, but obviously we had a good deal of back and forth on the preparation of that document. It would help me if you could explain if you have an understanding what the purpose of the May option agreement was, if it covered the same property that was referenced in the September agreement. Was it because the September agreement was about to expire that a new option agreement was entered?

A The September agreement provided that that property would belong to Seth Ward and was not subject to the option that involved all of IDC.

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Mr. Ward has told me that he thought that that property would be very, very valuable because at that time there was talk about a south bypass interstate that would go either across or by that property and that it would be an ideal spot for commercial development.

Apparently, according to Mr. Ward, Mr. McDougal agreed with him and wanted an option to buy the property.

Q That's very helpful. So if I'm understanding your testimony, the property that was the subject of the May 1986 option had essentially been carved out in September of 1985 and Madison had no option on that particular parcel under the September 1985 agreement?

A That is correct.

Q So, this essentially was a new arrangement between Mr. Ward and Mr. McDougal --

A That's exactly correct.

Q -- to provide Madison Guaranty or its affiliate an option on that property.

So, it was Mr. Ward's position and

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understanding that he was intended to have free and clear title or ownership of that parcel without any option being granted to Madison Guaranty up until May, when he provided an option?

A That's correct. And he did, in fact, mortgage that property as security for the $400,000 loan which was subsequently reduced to $300,000.

MR. DINH: Just to be clear, when you say "free and clear," you mean free and clear of the option, not of encumbrances, because there was that mortgage on the original note?

MR. COLE: That's what I exactly mean.

BY MR. COLE:

Q I won't recover what you already testified to, because I believe you testified very clearly that it was Mr. Ward's position and your understanding based on your discussions with Mr. Ward that the $300,000 loan had nothing to do with the prior commission arrangement between Mr. McDougal and Mr. Ward?

A The $400,000 that had been reduced to 300,000 by a 100,000 payment had nothing to do with

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commissions, except that Mr. Ward felt that he was entitled to cash money, and they said they didn't have it but they would lend him some money.

In that sense, the fact they hadn't paid him the commission was the reason he was borrowing the $400,000. Otherwise, it had no connection whatsoever.

Q And Mr. Dinh asked you whether the result of all of the arrangements between Mr. Ward and Madison Guaranty was that he obtained what Mr. Dinh referred to as a windfall in getting both the property and the funds that he felt he was owed for the commissions. As I understood your testimony, what Mr. Ward ultimately got was forgiveness of the loan and the property. So, he didn't actually get the property and $300,000 cash; is that correct?

A He deeded the property to Madison in repayment of the loan that was now down to $300,000. The option to purchase the property was never exercised. But since it wasn't exercised, since he used it as security, he deeded it to Madison.

Q So basically the only thing at the end of

the various transactions, he got the $300,000 and that was all that he got?

A He got more than that. He got 391,000, as I recall, which covered the note 300 and then he got another 91, some of which was interest and some of which was attorney fees and some of which was because we proved that the commissions due him were in excess of 300,000.

Q That was the money that essentially he claimed he was owed for the commissions?

A That's right. Of course, Mr. Latham testified unequivocally that they owed him at least $300,000 in commissions. It is in the transcript and is perfectly clear. The main issue in the lawsuit as I saw it was how much, not whether or not Mr. Ward was entitled to commissions but how much was he entitled to.

Q That was because you had the documents that established what the arrangement was between Mr. Ward and Madison Guaranty for payment of commissions?

A Right. If there was anything in the nature of a windfall, it was McDougal's agreement in the

first instance to let Mr. Ward have title to Holman Acres.

Q That's what I was trying to get to, but you were much more clear in your answer than I was in my question. With respect to the meeting in 1995 with Mrs. Clinton and Mr. Kendall that you testified about in which you, as I understand it, reviewed for them the information that you had compiled regarding Mrs. Clinton's legal work and legal abilities and experience, was there any review at that meeting of bills or time records relating to Madison Guaranty Savings & Loan?

A Oh, no, absolutely not.

Q Was there any discussion of her legal work for Madison Guaranty Savings & Loan?

A Not at all. We discussed matters that I had personal knowledge of her being in court. That was the sole purpose of that part of it, plus people I had talked to that also testified that considered her a good lawyer.

Q I take it from that, then, sir, that there was also no discussion of the Ward v. Madison

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litigation --
A Absolutely none.
Q -- or the IDC purchase transaction?
A None at all.
Q Was there any discussion at that meeting of a report that had been prepared by the Inspector General of the Resolution Trust Corporation pertaining to the Rose Law Firm's legal work for Madison Guaranty Savings & Loan?
A Discussion with whom?
Q With Mrs. Clinton and Mr. Kendall at that meeting.
A No.
Q Do you think that is something you would have recalled if that had been discussed?
A I'm sure I would.
Q You are certain that did not take place?
A I know it was not discussed. It was not.
Q Turning, then, to the meeting in the fall of 1995 at your offices in Little Rock with Mr. Kendall and Mr. Ward when Mr. Kendall showed Mr. Ward time records, do you recall whether the

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documents that Mr. Kendall reviewed with Mr. Ward were bills that a law firm would send a client or, on the other hand, internal law firm billing record time sheets?
A I have no idea.
Q It could have been either one?
A It could have been either one, that's right.
Q But you do believe that the records related to Mrs. Clinton's legal work or the Rose Law Firm's legal work?
A It related to the Rose Law Firm's legal work is my recollection. Now, whether it was Mrs. Clinton or somebody else, I had no idea.
Q That was going to be my next question, whether you can recall whether the documents that Mr. Kendall reviewed with Mr. Ward had any specific information about Mrs. Clinton.
A I couldn't tell you. I do not know.
Q Do you remember whether the materials that Mr. Kendall and Mr. Ward reviewed related only to the Rose firm's work for Madison Guaranty, or did it

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relate to other clients as well?
A I have no idea.
Q And I think Mr. Dinh has exhausted your recollection on this. You don't remember anything more about what the records that they reviewed looked like or the size of the documents other than Mr. Dinh showed you a set of documents, and I don't want to put words in your mouth, but I think you said they don't appear to be the same records that Mr. Kendall showed Mr. Ward.
A That's the best of my recollection. They do not appear to be the same.
MR. DINH: For the record, I just realized I did not note for the record what these documents were. They are documents starting with DKSN 028928.
BY MR. COLE:
Q Just for the record, what Mr. Dinh showed you and what I am now putting before you is a stack of, I guess it is 11-by-17 computer printouts that appears to be about an inch and a half, 2 inches thick, and it has a series of computer entries. Between the sheets of computer paper are law firm

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bills on 8-1/2 by 11 paper. What is it about these documents, Mr. Jennings, that make you believe they are not the same documents? Is it the size or the volume?
A I think that it is primarily the legibility. I glanced at the documents, and they were not, to me, very clearly legible.
Q The documents that Mr. Kendall had?
A Correct.
Q In other words, they may have been photocopies of documents that had been photocopied a number of times and so the clarity was --
A It could well have been something of that nature.
Q In fact, the documents that we have are copies that have been made on a color copier, represented to us have been made on a color copier. They are what I would call first generation copies. So they are fairly clear. Your recollection is the documents you looked at were not this clear in terms of the legibility of the documents?
A That's my recollection.

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MR. COLE: As I said, I think we have more than exhausted your recollection on this. I don't have anything further.

MR. DINH: I just have one quick or two quick questions.

EXAMINATION

BY MR. DINH:

Q Do you happen to know the name of Mr. Hubbell's secretary that Mr. Ward told you typed out the third agreement?

A No, I don't.

Q You know it was his secretary at the Rose Law Firm?

A According to Mr. Ward, yes.

Q I have one question and I think Mr. Cole touched on this before, and you have testified with respect to the "windfall" that Mr. McDougal gave Mr. Ward in the original agreement. Do you know why Holman Acres in particular was carved out?

A Because Mr. Ward thought it was the most valuable property in the whole deal.

Q At that time did he have the information

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regarding the proposed bypass interstate?

A I think nobody had any information but a rumor.

Q A rumor at that time. It was that information or whatever, rumor, that he had before the formulation of the September 24, 1985?

A Yes.

Q It wasn't something he came by afterwards?

A No.

Q There was a specific reason he selected that parcel out in particular?

A That's correct.

Q Just so I can get all the loops tied up. In your August 10, 1995 meeting with Mrs. Clinton where you testified earlier you mentioned five matters that you had come in contact with Mrs. Clinton, I take it none of these matters involved Madison Guaranty?

A No.

Q And none involved Seth Ward?

A No.

MR. DINH: I have nothing further.

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THE WITNESS: May I read something into the record?
MR. DINH: Yes. This is from the transcript of the trial?
THE WITNESS: Yes. It is page S 32921.
MR. DINH: At page 110 of the transcript.
THE WITNESS: Yes, and 232 of the record on appeal.
"Let me ask you this, Mr. Latham." This is cross-examination by me. "I believe you already testified that you don't think that Madison could ever have gotten the deal on this property except through Mr. Ward; is that correct?
"Answer: I believe that's true.
"Question: And is it true that Madison has sold properties for a total according to our information of 3,419,600 plus 372,000 which totals, well, it totals 3,791,600, I guess, close to 3.8 million?
"Answer: I'm going to have to rely on the records on that. I don't remember the dollars involved.

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"Question: Do you have any reason to doubt those figures that were furnished to us by Madison?
"Answer: I have no reason to dispute those, no.
"Question: A pretty good deal for Madison?
"Answer: It looks like it."
You think that something I did won the lawsuit? Mr. Latham laid it all out for the jury.
BY MR. DINH:
Q As you testified earlier, some of this $3.8 million was not collected, ultimately leading to the loss to Madison?
A That's my understanding.
MR. DINH: Thank you very much.
MR. COLE: Thank you both.
(Whereupon, at 4:20 p.m., the deposition was concluded.)

ALSTON JENNINGS

CERTIFICATE OF NOTARY PUBLIC & REPORTER 139

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey

Notary Public in and for the
District of Columbia

My Commission Expires SEPTEMBER 14, 1996

DEPONENT: ALSTON JENNINGS, SR.

ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
15	15	"for"	"from"	
48	10	"$1750"	"1,750,000"	That was the correct cost of the property.
66	3	"appellates"	"appellants"	
81	2	"father"	"brother"	
98	6	"in the fall of '95"		This is an accurate transcription, but my memory was faulty.
103	17	"Yes, it was before Christmas"		This is an accurate transcription, but my memory was faulty, and I promptly advised Mr. Viet D. Dinh and the Committee that this meeting actually took place in 1996.
106	17		Should read "not as close"	

DEPOSITION OF JANE C. SHERBURNE
IN RE: S. RES. 120

TUESDAY, FEBRUARY 6, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of JANE C. SHERBURNE, called for examination pursuant to notice of deposition, at 4:50 p.m. in Room 534 of the Dirksen Senate Office Building, before DAVID L. HOFFMAN, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., ESQ.
Majority Chief Counsel
DOUGLAS R. NAPPI, ESQ.
Majority Counsel
RICHARD BEN-VENISTE, ESQ.
Minority Special Counsel
GLENN F. IVEY, ESQ.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ROGER M. WITTEN, ESQ.
GAIL C. BERNSTEIN, ESQ.
Wilmer, Cutler & Pickering
2445 M. Street, NW
Washington, DC 20037–1420
On behalf of the Deponent.

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PROCEEDINGS

(4:50 p.m.)

Whereupon,

JANE C. SHERBURNE

was called as a witness herein, and having been first duly sworn, was examined and testified as follows:

MR. WITTEN: I don't want to start out contentious but it's now ten to 5:00. It's late in the day. We're tired. Our witness is busy. You shouldn't anticipate that we'll be willing to stay forever. You ought to prioritize your questions.

MR. GIUFFRA: If you'd like, we can do the deposition tomorrow or split it up.

MR. WITTEN: We're not going to come back twice.

I'll consult with my client about when she wants to do it.

How long do you expect to be?

MR. GIUFFRA: I have no idea. I don't know what Ms. Sherburne knows. By our count, she was before the Grand Jury for four hours.

MR. WITTEN: What time would you be

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prepared to do it tomorrow if that turns out to be her preference?

MR. GIUFFRA: Let's go off the record for a second.

(Discussion off the record.)

BY MR. GIUFFRA:

Q Ms. Sherburne, would you please state your name for the record?

A My name is Jane Sherburne.

Q Would you spell your last name, please?

A S-H-E-R-B-U-R-N-E.

Q This is a deposition that's being conducted pursuant to Senate Resolution 120. This Resolution establishes a special committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation and other related matters.

As you know, my name is Robert Giuffra. I'm chief counsel of the Senate Banking Committee.

To my left is Doug Nappi who is a counsel to the Banking Committee.

And further down is Mr. Ben-Veniste who is

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minority special counsel.
This deposition is in advance of public hearings that will be held on Thursday at which you'll be asked to testify.
Are you familiar with the procedure for the conduct of depositions by the Committee?
A Yes.
Q You don't need to have me go through it now?
MR. WITTEN: No.
BY MR. GIUFFRA:
Q I see you've chosen to be represented by counsel.
If counsel would state his appearance for the record.
MR. WITTEN: My name is Roger Witten. I'm with Wilmer, Cutler & Pickering. I'm with Gail Bernstein, also with Wilmer, Cutler & Pickering.
BY MR. GIUFFRA:
Q Ms. Sherburne, what is your present position?
A Special counsel to the President.

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Q Did you speak with anyone other than your counsel prior to this deposition on the substance of your testimony?
A The substance of my testimony here in this deposition?
Q The substance of it, yes?
A No.
Q Have you testified about these matters before?
A What matters?
Q This deposition is primarily focused in the circumstances surrounding the discovery of certain billing records at the White House.
MR. WITTEN: She testified in the Grand Jury. You know that. And she's not going to tell you any more about it. Let's move on.
BY MR. GIUFFRA:
Q Let me focus your attention to January 4, 1996. Did there come a time on January 4, 1996 when you learned of the discovery of certain documents by Caroline Huber of the White House staff.
A Yes.

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Q When did you learn of the discovery and what were the documents you learned of the discovery of on January 4, 1996?
A They were Rose Law Firm billing records reflecting the attorney detail for work that had been performed by Rose Law Firm lawyers for their client, Madison.
Q Who informed you of the discovery of these billing records?
A David Kendall.
Q Approximately what time did Mr. Kendall advise you of the discovery of these billing records?
A Your question assumes that he knew what they were at the time he advised me of them.
He called me about 4:00 o'clock, I believe, on January 4th, and said that Caroline Huber had located documents that he believed were billing records related to Madison worked performed by Rose Law Firm lawyers.
Q Did he say anything further to you about what Ms. Huber had told him about these records?
A No, not that I remember.

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Q And did you contact anyone at the conclusion of your 4:00 o'clock phone call with Mr. Kendall?
A What do you mean contact anyone? About what?
Q After you got the call from Mr. Kendall, did you call anyone and say, well, David Kendall just called and said that Caroline Huber found some documents at the White House?
A No, I did not do that.
Q What did you do after the phone call with Mr. Kendall?
A I can't remember.
Q Did there come a time when you spoke to Ms. Huber on January 4, 1996?
A Yes.
Q When was that?
A I believe it was around 5:00 o'clock.
Q Was anyone present when you spoke to Ms. Huber?
A Ms. Huber, as well as David Kendall and Ms. Huber's lawyer, Hank Schuelke.

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Q Where did you meet with Ms. Huber?
A In her office in the East Wing of the White House.
Q Between 4:00 and 5:00 o'clock, you had no recollection of having any --
Strike that.
Do you have any recollection between 4:00 and 5:00 o'clock of having any contacts with anyone having anything to do with Rose billing records?
A I had no contact with anyone between 4:00 and 5:00 o'clock related to anything to do with the Rose billing records.
Q Do you recall whether at the conversation you had at 4:00 o'clock with Mr. Kendall, that he advised you that there would be a meeting at 5:00 o'clock in Ms. Huber's office?
A No. He asked me if I would be available to go over to Ms. Huber's office with him and Mr. Schuelke at 4:45, and he asked me if I would make arrangements to wave them in.
Q Your testimony is you arrived at Ms. Huber's office at approximately 5:00 o'clock?

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A I believe it was about 5:00 o'clock.
Q What do you recall about any conversations that occurred at 5:00 o'clock when you arrived at Ms. Huber's office?
What happened?
A We got to Ms. Huber's office. She had the billing records in her office. She showed us where they had been.
Q Where were the billing records when you arrived at the office? Were they out on a table, or were they in the box where she found them originally?
A I'm not sure. I think she had them on her desk, or she may have been holding them. I think she had them on her desk. I know at one point she put them in the box to show us how they had been placed when she found them. But I don't believe they were in the box when we walked in the room.
Q And what did Ms. Huber say to you about the discovery of these billing records during the conversation in her office on January 4, 1996, at approximately 5:00 o'clock?
A What did she say at 5:00 o'clock?

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As you may know, we were together for a long period of time.

Q Maybe the most efficient way is why don't you just tell us, in your own words, what happened?

MR. BEN-VENISTE: She was doing that and you interrupted her.

BY MR. GIUFFRA:

Q From 5:00 o'clock on on January 4, 1996.

A Well, Ms. Huber showed us the billing records. We stayed in her office for a few minutes. It was not a space conducive to easily looking at the records, so we went to an office next door where Ms. Huber sat down behind a desk, spread the billing records open in front of her, and Kendall, Schuelke and I stood around behind her as she flipped through the pages of the billing records, one by one.

We asked her questions about where they had been.

She indicated that they had been in this box that she had under a table in her office. That she had brought these boxes, there were a number of boxes, that she'd brought them over from the

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residence at some prior time. She was confused about the time.

First she said three months. Later she said ten months. Then she said she wasn't sure. It could have been more recently, it could have been longer.

She was very uncertain about the time.

She said that the boxes had been placed under a table in her office when she brought them over, and that as part of her New Year's resolution, she had decided to remove the table from her office, thus exposing the boxes and that she would then start dealing with these things in the boxes that had apparently been sitting there waiting for her to pay attention to for quite some time.

And that it was at that point that she picked up these records, looked through them more carefully than she had when she had first seen them in the residence, and realized that they related to Madison bills from the '85-'86 period.

She recognized that as a time period that was important to the various inquiries about

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Whitewater.
So as soon as she realized that, she said she picked up the phone and called David Kendall.
Then we asked her questions.
Q Did she indicate that she had first --
MR. BEN-VENISTE: Excuse me. As a narrative at this point, I'd like your indulgence. I have to make a phone call. It may take a few minutes. I'm sorry.
(Recess.)
(Readback.)
BY MR. GIUFFRA:
Q Did Ms. Huber indicate that she discovered the billing records in the box in her office on January 4, 1996?
A I'm hesitating of your use of the word "discover." She discovered them in the residence at some prior point. And she remembered that she had brought them over when she saw them in the box on the 4th.
Q She indicated that she saw the documents in the box on the 4th?

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A Right.
Q Did she indicate whether it was in the afternoon, the morning?
A No.
Q Do you have any idea when she first called Mr. Kendall?
A No.
Q Why don't you just continue with the narrative then.
A Let's see, where was I.
We'd gone into the next room, looking through, and I was telling you what she told us about the records.
She said that she had found them at some point. First she said a few months ago. Then she said three months ago. Then she said ten months ago.
At some point, I said, is it three or is it ten?
And she said, well, I don't know. It's somewhere three or ten months ago. She was very confused, very upset, very flustered, trembling.
Then we said, well, where did you find

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them in the residence.
She said that they were in the third floor. I don't know that she used the term "book room" herself. She may have. But she described the room that has been identified as the Book Room.
She said she had found them in there.
We asked her where.
She said they were just lying around.
We asked her where were they lying around.
She couldn't remember. First she said they were on a shelf. Then she said they were on a table. She was sort of, you know, she was not clear about where they were.
Then she said, first she said, when she looked at them, when she found them in the residence, that she found them and just threw them in a box of things that she was collecting in that room to bring back over to her East Wing office to sort through, and determine what to do with.
And then she said, and she said she hadn't looked at them. Then at some point she said she knew they were Madison records or she knew they were Rose

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Law Firm records.
And so we asked her, and I don't remember who exactly was doing the questions, we were all talking to her.
Q Did she indicate when she knew they were Rose Law Firm records?
A Well, I'm about to get to that.
First she said she didn't look at them, she just threw them in the box.
Then she said something about them knowing at the time that they were Rose Law Firm records.
So we asked her, wait a minute, I thought you didn't look at them. You know, did you look at them then?
And she said, well, having been the office manager of the Rose Law Firm, I know what Rose Law Firm records look like, so I looked at them long enough to identify them as Rose Law Firm records. And I threw them in the box. But she said I didn't look at them long enough to realize that they were Madison billing records from '85 and '86.
So this conversation is occurring, you

know, between the time we got there and the time we moved into the next room. And had started going through the records.

She's going through them page by page.

Q Did she say anything about the records as she was going through them page by page?

A She pointed out the red handwriting and identified that as Foster's handwriting. She identified, she observed that everything about the records was a copy except the original handwriting of Vince Foster.

And she observed that some of the handwriting was Mrs. Clinton's that appeared to have been placed there at the time the bills were prepared in '85 or '86.

She may have identified other handwriting on the bills but I don't remember. There may have been a bookkeeper or somebody like that whose handwriting she recognized that again looked like it would have been placed on there in '85 or '86.

We looked at the materials for awhile. Then I suggested to Kendall and Schuelke that we step

out in the hallway for a minute and talk about what to do.

I talked about whether we should copy the records, or whether there may be some interest in the records that should require us to do something with them before we copied them.

We discussed that for awhile, and then concluded that because the records were under subpoena by two different entities, maybe three, I think the RTC had an outstanding subpoena as well, and because they contained new information that needed to be examined, that it was important to get the copies made.

We talked about who should produce the records. Whether Schuelke should, whether the White House should, or whether Kendall should. We talked about that for, you know, ten minutes or so, and concluded that Kendall would produce the records.

Q You mentioned there was discussion of doing something prior to copying the records. Do you recall precisely what that something would be?

A Well, I asked the question whether these

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records were records that there may be some interest in fingerprinting at some point, and should we, you know, reserve on copying or handling them. And that was the question that we discussed and then decided that the competing demands for these documents, as well as the obligation to the clients to analyze them, were compelling and we ought to get them copied promptly and turn them over as quickly as possible to the Independent Counsel.

Q Was there any discussion of notifying the Independent Counsel and asking the Independent Counsel whether steps should be taken to preserve the records with a minimum of fingerprints on them, smudging and fingerprints?

A No.

Q Okay, go ahead with the narrative.

A I can't remember where I left off.

Q You were discussing the copying of the records, and you decided that the countervailing considerations required --

MR. WITTEN: That's not where she left off. That's what she answered in response to your

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question.

THE WITNESS: I think I was trying to remember what else we discussed.

Oh, we discussed whether we could get them copied fast enough that night to turn them over to at least the Independent Counsel that night.

I believe you got a full-sized set of these documents as we began the copying process, which you know happened in a different segment of this evening. It became clear that we couldn't get that whole process completed that night, but when we were in the hallway there, we talked about that.

And we talked about the confusion in Caroline's story, and that we agreed that this was not the time to press her on these facts, and try and understand just what her recollection was.

BY MR. GIUFFRA:

Q Did anyone other than Ms. Huber handle the billing records on January 4, 1996?

MR. WITTEN: In Jane's presence?

BY MR. GIUFFRA:

Q In Jane's presence?

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A In my presence? Well, I certainly did because I assisted in the copying, and I don't know if Kendall or Schuelke, at one time or another, would have handled a page here or there as well.
Q Approximately how long did the meeting in Ms. Huber's office last?
A In her office, are you including that in the office next door?
Q Yes.
A I would say it could have been 45 minutes. I'm including in that also the hallway conversation that was outside of her presence.
Q You report to the counsel to the President, correct?
A I have a reporting relationship with the Chief of Staff and the counsel to the President.
Q Did you notify anyone at the White House of the discovery of these billing records on January 4, 1996?
A Yes.
Q Who did you notify of the discovery of these billing records?

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A What was the question?
MR. WITTEN: Who in the White House did you notify on the 4th?
THE WITNESS: Who did I notify on the 4th? I notified members of my staff, and I also notified Harold Ickes.
BY MR. GIUFFRA:
Q Who on your staff did you notify?
A I notified Mark Fabiani, Ira Fishman, and David Fein.
Q Did you instruct them to notify anyone of the discovery of these records?
MR. WITTEN: You two had an extended discussion yesterday about the scope of this examination and privilege. Our view basically is that the subject of Jane's conversations with her staff are privileged.
I don't necessarily want to have a fight about privilege, and I think she can characterize these discussions without getting into the actual substance of them in a way that should satisfy you and avoid such a fight.

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Maybe the next question ought to be, please characterize the subject matter of this notification. And maybe if you're satisfied with that answer, we don't have to discuss this anymore.

MR. GIUFFRA: Why don't you read back the pending question?

(Readback.)

THE WITNESS: I'm prepared to answer that question because I don't think it gets into privileged areas.

The answer is no.

BY MR. GIUFFRA:

Q Do you know if they notified anyone of the discovery of these records?

A No.

Q Why did you contact Mr. Ickes about the discovery of these records?

A Why?

MR. WITTEN: Presumably to let him know.

THE WITNESS: I thought I already said that. I contacted him to notify him that the records had been discovered.

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BY MR. GIUFFRA:

Q Why did you specifically notify Mr. Ickes, as opposed to, for example, Mr. Panetta or someone else?

MR. WITTEN: The question is limited to January 4th, so the implication you're drawing here may not be appropriate, given the limitation of the question you asked her. But she can try to answer the question.

THE WITNESS: If the question is?

BY MR. GIUFFRA:

Q Did you notify Mr. Panetta?

MR. WITTEN: Ever?

BY MR. GIUFFRA:

Q On January 4th?

A No.

Q Did you notify Mr. Quinn on January 4th?

A No.

Q Do you know whether anyone on your staff notified Mr. Quinn?

A I don't know.

Q You presume that they probably did?

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A That they did? I don't know.
MR. WITTEN: Guess.
BY MR. GIUFFRA:
Q As you sit here today, do you know why you notified Mr. Ickes? Does he have some special role to play?
MR. BEN-VENISTE: What is the relevance of this? The records have been found and they've been copied. You're getting into the mental process of counsel.
If it's important to know it, that's one thing, but if it's just curiosity, I don't think it's appropriate to inquire.
MR. GIUFFRA: Your objection is noted.
BY MR. GIUFFRA:
Q Why did you contact Mr. Ickes and notify him of the discovery of the records?
A I contacted Mr. Ickes to notify him of the discovery of the records. The reason I contacted him was to notify him of the discovery of the records.
Q Was there any particular reason that of various people in White House, outside of your own

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staff, you chose to notify Mr. Ickes?
MR. WITTEN: I'm not a Whitewater voluptuary, so I don't appreciate the many wonders of this case, but I fail to see what this question has to do with anything at all that could possibly be of interest to the Congress of the United States.
MR. GIUFFRA: I think there's certainly evidence in the record indicating notifying Mr. Ickes about these records is a relevant matter.
THE WITNESS: What?
MR. BEN-VENISTE: Secret evidence or public evidence?
MR. GIUFFRA: One example, there's a memorandum from Mr. Ickes to the First Lady, dated March 1, 1994, discussing the Rose Law Firm and possible conflicts it may have.
There also are notes that the Committee has requested from the White House and an interview of the White House counsel with Mr. Ickes in which the Rose Law Firm comes up.
Therefore the reason why Ms. Sherburne contacted Mr. Ickes with regard to discovery of these

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records is relevant.
MR. WITTEN: I'm not bowled over here.
MR. GIUFFRA: If you instruct her not to answer the question, that's fine.
MR. WITTEN: I'm not going to instruct her.
MR. GIUFFRA: We'll deal with it. You know, everyone has --
MR. WITTEN: I think she's answered the question the best she can, and I suggest you move on.
BY MR. GIUFFRA:
Q You don't report to Mr. Ickes?
A Yes, I do. My reporting relationship with the Office of the Chief of Staff is to Mr. Ickes.
MR. WITTEN: Let's move along.
BY MR. GIUFFRA:
Q Does Mr. Ickes have some special responsibility with regard to Whitewater at the White House?
MR. WITTEN: You know, Bob, it is now February 6th, 1996. You guys have been investigating Whitewater for a long time, and you must know the

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answer to the question, what are Mr. Ickes' responsibilities and it's 5:30.
Can't we get to the substance of this?
BY MR. GIUFFRA:
Q Can you answer the question?
A What was the question?
Q Does Mr. Ickes have some special responsibility at the White House with regard to Whitewater matters?
A I report to him, and I have special responsibility with regard to Whitewater mattes.
Q So is he the person in the Chief of Staff's office with responsibility for Whitewater matters?
It's a simple question. Yes or no?
MR. WITTEN: I wasn't gasping at its simplicity, I was gasping at its stupidity. On February 6, 1996, you're asking this witness at 5:30 at night about Mr. Ickes' responsibilities after you've been looking into this matter for eight months.
MR. BEN-VENISTE: Couldn't we try to focus

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on what actually happened?
MR. GIUFFRA: I think if counsel would stop trying to obstruct the deposition, we would not have a problem.
Also comments like the stupidity of the question certainly don't further the fact-finding process.
MR. BEN-VENISTE: I don't think that characterization is that helpful. I think there's a level of frustration here, Bob, and in terms of the time and the time people were kept waiting, and there isn't much more to be said about that. We're trying to do the best we can.
May I simply suggest that we try to get to the factual matters that are involved, and get to the politics later?
MR. GIUFFRA: Again, that's more characterization of the politics of the matter.
I'm just trying to find the facts.
Jane called Mr. Ickes.
I would just like to know, on this transcript, whether Mr. Ickes, on January 4, 1996, is

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the person in the White House Chief of Staff's office with responsibility for Whitewater matters?
A very simple question.
I think the record will reflect that it's a very simple question that's entirely relevant.
MR. BEN-VENISTE: Is there an "a person" or "the person" answer to that question? Clearly a person to whom you reported. You have responsibility for Whitewater. Are there other people who were interested?
THE WITNESS: Certainly there are. Mr. Ickes is the person in the Chief of Staff's office to whom I report and to whom I deal with out of the Chief of Staff's office on Whitewater issues.
BY MR. GIUFFRA:
Q So it's your understanding that he's the person in the Chief of Staff's office with responsibility for Whitewater?
MR. WITTEN: Don't answer the question.
Move along.
BY MR. GIUFFRA:
Q Do you know whether Mr. Ickes informed

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anyone of the discovery of these documents?
A No. On the 4th?
Q Yes.
A No.
MR. WITTEN: No, you do not know?
THE WITNESS: No, I do not know.
BY MR. GIUFFRA:
Q At approximately 6:00 o'clock, was the decision made to leave the East Wing of the White House?
A At 6:00? I don't remember what time it was.
Q You had your meeting with Mr. Kendall and Mr. Schuelke in the hallway, and you discussed how to handle these records, correct?
A That's right.
Q What did you do next?
A Then we talked about the best way to copy them, get them copied. Recognized that because they had color markings on them that we needed a color copier. And so I undertook to locate in the White House complex a color copier.

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Q Just one question to clarify.
Did you call your staff and Mr. Ickes, do you recall when you called your staff and Mr. Ickes?
MR. WITTEN: She hasn't said she called her staff.
BY MR. GIUFFRA:
Q You called Mr. Ickes by telephone, is that right?
A That's right.
Q Do you recall when you called Mr. Ickes by telephone?
A It was after the copying was completed late in the evening.
Q Did you call members of your staff?
A No. By telephone, no.
Q Did members of your staff, did you see them in person?
A Yes.
Q When did you see them in person?
A After the copying was completed, later that evening.
Q You undertook to locate a color copying

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machine within the White House complex?
A Right. We located one in the New Executive Office Building, so we walked over to the New Executive Office Building.
There was also, by the way, some discussion, I guess it was part of that hallway discussion of taking photographs of the boxes that Caroline Huber had in her office.
They were sort of messy boxes filled with junk, so there was discussion of taking photographs of that. That was another issue that was discussed.
We went over to the NEOB. Both Kendall and Schuelke had to get waved back in. Caroline and I proceeded into the NEOB to find the office that had the color copier.
Q Who transported the records from the East Wing to the New Executive Office Building?
A I believe Caroline had them in a manilla folder.
Q Approximately what time did you arrive at the New Executive Office Building?
A I don't remember.

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Q Did you then commence to copy the records in the New Executive Office Building?
A That's right.
Q Do you recall where precisely in the New Executive Office Building you copied the records?
A I don't remember the room number.
Q Who was it that located the copying machine, the color copying machine? Someone on your staff?
A That's right.
Q Did you and Ms. Huber commence the copying of these billing records?
A Yes.
Q Were Mr. Kendall and Mr. Schuelke present?
A It took them a little time to get waved in to the New Executive Office Building so I believe Caroline and I had already figured out how to work the copier and begun the copying process by the time Schuelke and Kendall actually arrived.
Q And both of you were involved in the copying process?
A Caroline actually worked the copier and

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fed the copies of the originals through. And for the most part, although she did some of this too, I took the copies off the machine. We removed two copies. I took the copies off the machine and collated them and checked them to make sure that everything on the page had been completely copied.

Q Was this the type of copying machine where you actually had to put the copies through, or did you just lay them on top of the glass and have them copied?

A I think you lay the copy on top of the glass. It was incredibly slow. I don't know if you've ever worked with a color copier before. But we had originally thought we'd make all the copies we needed for the various entities we needed to produce them to that night. And it was an incredibly slow process, so we only made the two copies that night.

Q Approximately how long did it take to make these two copies?

A It must have been a couple hours, maybe even longer.

Q Just to go back and fill in, you testified

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that there was discussion of photocopying the boxes. Were photos eventually taken?

MR. WITTEN: Photographing?

BY MR. GIUFFRA:

Q Excuse me. Photographing the boxes?

A I believe they were, but I'm not sure.

Q Do you know whether anyone did take photos of the boxes?

A Isn't that what you just asked me?

Q Yes. The answer is yes, right?

A No. I just said I don't know. I believe they did.

Q What's the basis of your belief that photos were made?

A At some point, Kendall and Schuelke left and left the NEOB to go back to the East Wing and they had obtained I believe one of those little disposable cameras. They were going to go back and take photographs. And then they returned later and said they had taken them. I've never seen them. I don't think I ever saw the camera.

Q At approximately what time on January 4

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did you conclude the copying process?
A I don't know. I know it was late when I got back to my office. My kids were in bed.
Q So you estimate approximately what time?
A 9:30 or 10:00.
Q During the course of the copying of the billing records, did Ms. Huber say anything more about the discovery of the records?
A No. She kept saying things like, I just don't know. I just don't know. Which was sort of a more nervous expression than anything of any substance.
Q Did you have any further discussions with Mr. Schuelke and Mr. Kendall other than those you've testified to on January 4, 1996?
A I'm sure we made additional observations to one another and about the billing records, but I don't have any specific --
Q So you don't recall any other observations you might have made to each other about the billing records?
A Not in particular.

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Q Generally?
A Just that it was a significant discovery, that it was something we wanted to produce promptly, and that we assumed that we would all be testifying about the events as they were developing that evening.
Q So there was discussion that evening of the fact that you might have to testify about the discovery of the billing records?
A Sure.
Q Do you recall anything more about those discussions?
A No.
Q Were the discussions about the fact that you might have to testify about the discovery of the billing records during the discussion of how to handle the records in the East Wing, specifically with regard to copying?
A No.
Q When you got back to your office, what did you do?
A I'm not sure exactly what I did. I know

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at some point shortly after I got back, I learned, either because I got a telephone call or I made a call, that the three people identified were in an office in the Old Executive Office Building, so I went over and joined them there, and notified them about the billing records.

Q You notified Mr. Ickes when you got back to your office?

A After that, yes.

Q Would this be after the meeting in the Old Executive Office Building with your staff?

A Yes.

Q Did you reach him at home?

A I don't know where I reached him. I called him through the White House operator, I believe. I may have paged him. I can't remember.

Q With regard to the two copies that were made of these billing records, --

Strike that.

After you completed the process of copying the records, what happened with the copies?

A Kendall took the original and one of the

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copies, and I took the other copy.

Q Do you know how Mr. Kendall handled the originals?

A The original went back in that manilla folder that Caroline had brought over, and he carried it off.

Q Okay. Was there any discussion how the copies and the originals should be handled that evening?

In other words, who would get which copy and who would get the original?

A Well, Kendall was going to do the production so he needed to take, and we talked about how the Independent Counsel would get the originals, so he needed to take the original, and then he took the copy set, and I understood that was what he was going to make additional copies from.

Q And then you would take a copy just to analyze? You took a copy with you?

A Yes.

Q Was there any discussion of why you would take a copy of the billing records?

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A I don't know if there was any discussion of that or not.
Q Do you know why you took a copy of the billing records?
A I took a copy because I wanted to have a precise set of what we copied that night from the originals so that I had that in my custody, and also because I wanted to review it.
Q Do you know when the Office of the Independent Counsel was informed of the discovery of these billing records?
A Yes.
Q When was the Office of Independent Counsel informed of the discovery of these billing records?
A I thought we agreed yesterday we weren't getting into that.
MR. BEN-VENISTE: Did you agree, Bob?
Independent Counsel has asked us not to.
MR. GIUFFRA: I think there's a big difference between a question and it's the only question I'll ask.
When was the notification.

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MR. BEN-VENISTE: Did you agree?
MR. GIUFFRA: No, we did not agree. This is not a question of communications between Ms. Sherburne or the White House with the Independent Counsel going to how did you find the records, what did you say to the Independent Counsel or the Grand Jury.
THE WITNESS: But throughout this whole process, we've had an understanding with you and have never talked about our communications with or cooperation with the Independent Counsel, and I don't understand why it's relevant here and why we'd start doing that now.
MR. GIUFFRA: I wish to ask you two questions. One, when was the notification of Independent Counsel, when you notified the Independent Counsel, and you obviously are free to decide whether you want to respond to those two questions. I don't intend to ask any others.
THE WITNESS: Let's defer it.
BY MR. GIUFFRA:
Q Until when?

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MR. WITTEN: What has the history been with respect to such questions?
MR. BEN-VENISTE: I don't know the agreement you entered into. I don't know that we had an agreement with Independent Counsel that we're supposed to ask witnesses about their contact with the Independent Counsel.
MR. GIUFFRA: I think that's a bit of an overstatement.
MR. BEN-VENISTE: Whether it is or it isn't, I wasn't there.
MR. GIUFFRA: I believe you've asked numerous witnesses. Again, I don't want to clutter this record up.
MR. BEN-VENISTE: So let's move on.
MR. GIUFFRA: What did you say to the Independent Counsel? When did you discuss various events with the Independent Counsel, and in particular I recall the long examination of Officer Henry O'Neill about his communications with the Independent Counsel. I'm sure you recall that.
MR. BEN-VENISTE: Are you talking about

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the FBI reports? We could get into all that but I agree that would clutter up the record.
MR. WITTEN: Let's move on from here.
MR. GIUFFRA: So right now, Jane's not going to answer that question, those two questions?
THE WITNESS: Not right now.
BY MR. GIUFFRA:
Q Do you know when Mrs. Clinton was notified of the discovery of these billing records?
A Yes.
Q When was Mrs. Clinton notified of the discovery of these billing records?
A January 5th.
Q Do you know who notified Mrs. Clinton of the discovery of the billing records?
A Yes.
Q Who notified Mrs. Clinton of the discovery of the billing records?
A David Kendall.
Q Did you have any communication with Mrs. Clinton about the discovery?
A On January 5th, no.

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Q Were you present during the conversation with Mr. Kendall with regard to the discovery of the billing records?
A No.
Q This was a communication between Mr. Kendall and Mrs. Clinton that you were not present for, correct?
A That would be right.
Q Now when you spoke to Ms. Huber on the 4th, was anyone taking notes?
A No.
Q Do you know who was present, if anyone?
Strike that.
Do you know how Mr. Kendall notified Mrs. Clinton of the discovery of these records, by telephone or in person?
A I don't know.
Q Do you know whether anyone else was present when he notified Mrs. Clinton?
A No.
(Pause.)
Q Did anyone take Ms. Huber to the third

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floor of the White House on January 4th to the Book Room, to see if you could identify where she found the records?
A Not that I'm aware of.
Q Do you know whether anyone's ever done that?
A I don't know.
Q Have you had any further conversation, other than those you've testified about, with Ms. Huber about the discovery of the records?
A Just one, which was after we left the New Executive Office Building and we were walking back to the White House.
Ms. Huber said to me that she was very upset and she just didn't know if she had done the right thing.
And I said, what do you mean by that?
And she said, I didn't know what to do when I found these today, and maybe I should have just thrown them out.
And I said, Caroline, you did the right thing. It would have been wrong to throw them out.

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You did the right thing to call David.
And I tried to reassure her and calm her down.
Q And have you had any other communication with Ms. Huber at any other time about the discovery of these records?
MR. WITTEN: There's a cutoff date. I don't know whether it's relevant to the answer but I thought there was a cutoff date for this inquiry.
THE WITNESS: After that night, no.
BY MR. GIUFFRA:
Q Was anyone else present when you had this conversation with Ms. Huber?
A Which one, the one I just told you about?
Q Yes, walking back.
A Walking back, no.
Q Do you have any understanding as to whether Ms. Huber spoke with Mrs. Clinton on January 4th, 1996?
A No.
Q Do you know one way or the other, or the answer is no, that she didn't speak to her?

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A I don't have any knowledge one way or the other.
Q At any time on January 4, 1996, did Ms. Huber indicate to you that she had spoken to Mrs. Clinton about Rose Law Firm billing records in the past?
A No.
Q Did Ms. Huber indicate --
Strike that.
You've obviously seen these records on page 2892. In the upper left hand corner, there's a notation 2/12/92 8:41, I believe her testimony is that that is the time that the client billing and payment history was printed off the Rose Law Firm computer system.
Did Ms. Huber indicate to you that she had ever seen these billing records or played any role in transporting them?
Strike that.
Has Ms. Huber ever indicated to you that she played any role in transporting these billing records from Arkansas to Washington?

A No.
Q Do you know who transported these billing records from Arkansas to Washington?
A No.
Q Other than testifying that she saw the records when she found them in the Book Room -- Strike that.
Other than stating to you that she saw the records when she found them in the Book Room, and later on, January 4, did Ms. Huber indicate that she'd ever seen these records before?
A No.
Q Just going back to the question of the copying of the records and the fingerprints, do you recall anything more about that discussion?
A Anything more than what I've already said?
Q Yes.
A No.
Q Do you recall who made the decision that you should copy the records, rather than try and take steps to see to it that perhaps fingerprints wouldn't be lost because they would be handled by other

people?
MR. WITTEN: That's not what she testified to, but she can answer the question.
THE WITNESS: Is the question who made the decision to go ahead and copy the records that night?
BY MR. GIUFFRA:
Q Yes.
A That was a joint decision.
Q And there was no dissent with regard to copying the records among the three of you?
A We discussed the issue and reached a joint decision to go ahead and copy the records.
Q Do you recall anything more about those discussions?
(Pause.)
A No.
Q Do you recall who initially suggested copying the records?
MR. IVEY: I'm sorry. What was the question?
BY MR. GIUFFRA:
Q Do you recall who initially suggested

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copying the records?
A I don't. I think we all assumed they'd have to be copied promptly in order to produce them promptly which was the objective. And I don't remember how that copying issue first came up. I think the presumption was copying, and I raised the issue about, should we copy them given the likelihood that they may be fingerprinted.
We had the discussion and then we jointly decided to proceed with the copying.
Q Do you recall anything that Mr. Schuelke said during the course of that conversation?
A I recall Mr. Schuelke agreeing that there was an obligation to the clients to keep a copy of the records so they could be analyzed, and that to do anything else would be in contravention of an obligation.
Q Now when you spoke to Ms. Huber, she initially said that she found the records in the Book Room, three to ten months previously?
A She never said three to ten months.
First she said three months, and then at a

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later point, she said ten months.
Q You're aware of her testimony where she's indicated that she found the records in the first week or two of August.
Did she say anything about the first week or two of August at any time on January 4, 1996?
A No. In fact, her testimony, the precision of her testimony surprised me when I heard it because of the confusion she had that evening about recalling a precise time when she discovered the records and the broad range of possibilities that she identified.
Q Let's focus just on the question of where Ms. Huber found the records in the Book Room.
MR. WITTEN: Focus on what she said about it.
MR. GIUFFRA: Exactly.
BY MR. GIUFFRA:
Q Do you recall anything more specific about what Ms. Huber said about where she found the records in the Book Room?
A No.
Q You've heard Ms. Huber's testimony, I

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presume, where she said that she found them on a table that was in the center of the Book Room?
A I've heard that testimony, yes.
Q Did she say anything about finding the records on a table in the Book Room on January 4, 1996?
A At one point in the conversation, she said she thought they were on a table. She never said anything about folded over on a corner of the table on top of books under a spotlight.
And another time, I had the impression that they were on a shelf. I had the impression, from what she said, that they were on top of something. They weren't hidden in a file drawer or in a cabinet. That they were out. But I didn't have any sense of precision that they were on a table, or on a shelf or on top of a file cabinet. I mean, that was the impression that she left with me, that it could have been any kind of place like that.
Q Now, with regard to what Ms. Huber said to you about noticing that these were Rose billing records, do you recall anything further about what

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Ms. Huber said about that subject?
MR. WITTEN: Again, that's not precisely what Jane said, but she should go ahead and answer.
THE WITNESS: No.
BY MR. GIUFFRA:
Q So your best recollection is that she said something about that she might have realized they were Rose billing records when she discovered them in the Book Room, put them aside and did not focus on the fact that they might be relevant to Madison?
MR. WITTEN: Jane said she contradicted herself. That's not a precise way of characterizing Jane's earlier testimony.
BY MR. GIUFFRA:
Q Why don't you state again, so that the record is clear, what Ms. Huber said about her noticing that these were Rose Law Firm billing records?
A Well, at one point she said she hadn't looked at them at all, and she just threw them in the box.
Q Did she tell you that when you first got

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there?
A I think she said that first. She was very upset and she was flustered and this came out in a very disorganized, non-methodical way.
So at one point she said she didn't even look them, she just tossed them in a box.
At another point, she said that she opened them up, recognized them as Rose Law Firm material because of her experience as the office manager at the Rose Law Firm.
Q And this would be back when she originally found the records in the Book Room?
A That's right.
And that she folded them back over and threw them in a box.
Q And that she did not realize, when she did that, that they were relevant to the Whitewater investigation?
A She didn't say that.
Q What did she say specifically?
A I just told you what she said specifically. She didn't say, I mean, you just put

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more words in her mouth that she didn't say. Presumably she didn't realize, or maybe she did, I don't know.
Q Have you ever been to the Book Room?
A Yes.
Q Had you been to the Book Room prior to January 4, 1996 -- strike that.
As of January 4, 1996, had you ever been to the Book Room?
A Yes.
Q What is your understanding --
Strike that.
The Book Room is located on the third floor of the White House residence?
A That's right.
MR. WITTEN: It hasn't moved.
BY MR. GIUFFRA:
Q And the Book Room is next to Mrs. Clinton's office on the third floor?
MR. WITTEN: Come on, Bob. It's now 6:00 o'clock. You've got this testimony all over the place.

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BY MR. GIUFFRA:
Q The answer is yes?
A Yes.
Q Do you have any understanding as to the persons who would ordinarily have access to the Book Room?
A I have an understanding that once you have access to the residence, you can roam freely in the residence, so that anyone who has access to the second or third floors of the residence could have access to the Book Room at any time.
Q As of January 4, 1996, do you recall on how many occasions you had been to the Book Room?
A Just once.
Q Can you tell us anything about that occasion when you were in the Book Room?
A Sure. I think it was sometime in the Spring of '95, and Caroline Huber, I was with Caroline. Caroline showed me the room and described it. I thought she described it as her work room or as a junk room. I remember that it was cluttered and messy. There was, I believe, a clothes rack with

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clothes hanging on it in there. I thought there was a table that had like a lamp, a lamp shade and junk covered over across the top of the table.
I don't remember file cabinets, and frankly I don't even remember books. I just remember thinking that it looked like a staging area, you know, where you put junk when you don't know what else to do with it, and while you're trying to figure it out.
Q Since the discovery of these records on January 4, 1996, have you had any conversations with Mr. Schuelke about the circumstances surrounding the discovery of the records?
MR. WITTEN: Again, after the cutoff date. I don't know whether that's relevant.
THE WITNESS: I may have spoken to him on the 5th, but I don't remember that I did. Actually, I did because we had press inquiries and we were trying to figure out what the press inquiries would be, and that must have been on the 5th because that was the day we disclosed the records publicly as well. So I believe I did talk to Hank on the 5th.

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BY MR. GIUFFRA:
Q Did he say anything further about his communications with Ms. Huber with regard to the discovery of these records?
A In that conversation? No.
Q Have you had other conversations with Mr. Schuelke in which he's discussed with you what Ms. Huber has said about the discovery of these records?
MR. WITTEN: Before the cutoff date.
MR. GIUFFRA: I just want to be clear on this. This cutoff date.
MR. WITTEN: When we talked yesterday, we talked up to the production to the Committee.
BY MR. GIUFFRA:
Q Your view is that the cutoff date is January 5, 1996?
A I thought that was your view too.
Q I think there's a tendency here to set cutoff dates and sometimes with regard to certain things, for example, you've made some statements about what Ms. Huber has said that may be a specific area that a cutoff date wouldn't necessarily apply.

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With regard to what Mr. Schuelke has said to you about what Ms. Huber has said to him with regard to the circumstances surrounding the discovery of these records.
MR. WITTEN: I didn't intend this as a negotiation, but my understanding was that there was an agreement that your inquiry would lead up to the production of documents to the Committee.
MR. GIUFFRA: I want to make this clear on the record. There was no agreement. We had a general discussion about what the scope would be, and there was an understanding as to certain subjects upon which there were sensitivities on each side's part.
I indicated quite clearly at the meeting that certain subjects would have to be taken under advisement or it would depend on the testimony.
THE WITNESS: You indicated quite clearly at the meeting that there's one subject that if there were any changes that were going to be made, that you would notify at the end of the day, and you didn't.
MR. BEN-VENISTE: I wasn't there.

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Why don't we operate on the basis of a good faith effort to comply with whatever agreement was reached and leave other areas for later discussion?

MR. GIUFFRA: Just to be clear, my understanding was that there were areas upon which there might have been disagreement, and we were going to see if we could avoid getting into those areas just to avoid a dispute, but there was no blanket agreement as to the exact parameters of the inquiry because we didn't know what the testimony was.

BY MR. GIUFFRA:

Q On the 5th, did you have any further conversation with Mr. Kendall?

A Do you want the answer about Schuelke?

Q On the 5th, did you have any communication with Mr. Kendall?

A I'm sure I did.

Q Do you recall anything about those communications?

MR. WITTEN: Let us consult for a minute.

(Discussion off the record.)

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MR. WITTEN: She's going to answer this question without regard to communications, if any, that she may have had with Mr. Kendall relating to communications with Independent Counsel.

Putting that aside, she can answer the question.

THE WITNESS: Mr. Kendall and I talked about production schedules when the copies were going to get to the Hill, when they were going to leave, what his transmittal letter was going to say.

We talked about a press statement. We talked about when these documents could be released to the press. He wanted to wait until after we were certain that you had received them.

And that's all I recall.

BY MR. GIUFFRA:

Q Do you recall anything specifically about the transmittal letter?

A No.

Q I believe the transmittal letter indicated that the records were found in Ms. Huber's office. Does that sound right?

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A I'd have to look at the transmittal letter.

(Pause.)

Q While Doug goes to find it, do you know approximately what time the records were turned over to the Senate?

A What time were they?

Q You don't know? Do you recall anything about any discussions with regard to the timing of the turning over the records to the Senate, whether to do it early in the day, late in the day?

A I recall that we wanted to do it as quickly as possible and that the copying tasks were slowing things down.

Q Do you recall any of the discussions with anyone on either the 4th or the 5th with regard to whether these billing records were called for by the Senate subpoena of October 30, 1995?

A No. What Senate subpoena? Oh, October, the October 30th, right, okay.

Q You've reviewed the Senate subpoena of October 30, 1995, correct?

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A Correct.

Q Do you believe these billing records were called for by that subpoena.

A You're asking me for a legal conclusion?

Q Were you the person at the White House in charge of complying with the Senate subpoena?

A Yes. But I want to make clear that in producing these records to the Senate, I never looked at the subpoena. It never occurred to me to think about whether or not they were responsive to the subpoena.

I recognized that they were relevant to the Senate's inquiry. I recognized it the minute I saw them. And determined immediately that we would produce them as promptly as possible to the Senate. So there was never any question that it was relevant to your inquiry and that we would produce them to you.

Now whether they're technically called for by the subpoena, you know, I'm not going to analyze that here.

But did we think they were relevant to

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your inquiry and that we ought to produce them, yes. Which is exactly what we did.

(Pause.)

Q Did there come a time in 1994 when the RTC served a subpoena on the White House for certain records relating to the Rose Law Firm?

A Not that I'm aware of.

Q Do you know whether the RTC served a subpoena --

Strike that.

Do you know whether the RTC has ever served a subpoena on the White House since January 20, 1993 calling for records of the Rose Law Firm?

A Not that I'm aware of.

Q Do you know whether the RTC has ever served a subpoena, since January 20, 1993, on the President and Mrs. Clinton in their personal capacity, calling for records of the Rose Law Firm?

A I know that the RTC has served subpoenas that Kendall has received, but I don't know who they've been served on, and I've never seen them, and

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I don't know what they call for.

(Handing document to witness.)

BY MR. GIUFFRA:

Q Let me show you a copy of Mr. Kendall's letter of January 5, 1996.

A Okay.

Q Did you review a draft of this letter before it was sent?

I should note that the letter is dated January 5, 1996 from David Kendall to Robert Giuffra, Senate Banking Committee.

A I don't think I did.

Q Do you recall any discussion with Mr. Kendall on January 5th, with regard to notifying either the Senate or the press with regard to where the records were discovered?

MR. WITTEN: May I?

(Handing document to witness.)

THE WITNESS: I believe that this letter, if I didn't review a copy of it, I think that Mr. Kendall read it to me. I think we discussed that he should explain that Ms. Huber had found them. I

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don't remember more about that discussion.
I'm not sure if that's responsive to your question. But if it's not --
BY MR. GIUFFRA:
Q Did you have any communications with Mr. Kendall on January 5 on the question of whether you should have copied the records on January 4th?
A No.
MR. GIUFFRA: Could we go off the record for just a second?
(Discussion off the record.)
MR. GIUFFRA: Let's go back on the record.
Just so the record is clear, Ms. Sherburne will not answer the question, when did you notify the Independent Counsel of the discovery of the records.
Who notified the Independent Counsel of the discovery of the records?
MR. WITTEN: I'm advised by my client, and have concluded, based on the discussion that took place off the record, that it's been consistent history of the dealings between the White House and the majority and minority of this Committee that the

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Committee has eschewed inquiry into communications between the White House and its counsel and the Independent Counsel.
If that's the case, as I believe it is, then this line of inquiry is inappropriate.
We've also asked Mr. Giuffra off the record to explain why it is he needs to know this information. Indeed, I said to Mr. Giuffra off the record, please persuade us why we should answer this question.
And aside from saying that it was a simple question, he gave us no reason.
MR. GIUFFRA: That's not true.
MR. WITTEN: As we also pointed out to Mr. Giuffra, Ms. Sherburne's testimony already disclosed that the copying was done on January 4th, and that the Independent Counsel was not consulted about the question of whether, and if so, how to copy.
Inferences can easily be drawn about that. So that is the history of why these questions aren't being answered.
And now I suggest we move on.

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MR. GIUFFRA: Let me just make, so the record is clear.

BY MR. GIUFFRA:

Q Ms. Sherburne, is it your testimony that you did not consult --

Strike that.

That you, Mr. Kendall and Mr. Schuelke did not consult with the Independent Counsel with regard to whether you should copy these records on January 4, 1996?

MR. WITTEN: She's already testified.

MR. BEN-VENISTE: She's already accurately testified to that. That was her testimony.

BY MR. GIUFFRA:

Q Would you answer the question?

MR. WITTEN: Answer the question, but we're not going to repeat all this for some tidy little point you're trying to make here.

THE WITNESS: The only people who talked about copying were Kendall, Sherburne, and Schuelke.

BY MR. GIUFFRA:

Q Was there any discussion on January 4th,

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among the three of you, as to whether you should consult with Independent Counsel before making that decision?

MR. WITTEN: You've asked it and she's answered it.

THE WITNESS: No.

MR. GIUFFRA: With regard to the relevance of the question of communication with the Independent Counsel, number one, there's never been a circumstance in the course of this investigation where critical evidence has been found at the White House under the circumstances under which we found these documents.

There's also never been a circumstance in which possibly actions were taken that compromised evidence that might indicate who handled the documents.

THE WITNESS: Is that in the history of this Administration, or are you referring all the way back to the Bush Administration and the little matter of the safe?

MR. WITTEN: Mr. Giuffra, I think this is

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the time for you to ask Ms. Sherburne questions.
Excuse me. I don't think it's a time for you to make any accusations about anything. Nor do I think any of the accusations you've hinted at --
MR. GIUFFRA: No one's making accusations. You took statements that were off the record and mischaracterized them. And I want to make sure the record is clear.
MR. WITTEN: It's 6:20. If you have another question, it's time to ask it.
BY MR. GIUFFRA:
Q On January 5, 1996, did you have any communications with anyone at the White House about the discovery of these records?
A I'm sure I did.
Q Did you discuss the discovery of the records with Margaret Williams?
MR. WITTEN: We're on that date still.
THE WITNESS: I don't believe so.
BY MR. GIUFFRA:
Q Do you have any recollection of anyone at the White House you might have spoken to about the

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discovery of these records?
A I know I spoke to Jack Quinn and I also spoke to the President.
Q Did you speak to anyone else?
MR. BEN-VENISTE: Please keep your voice up, Bob. No one can possibly hear you when you whisper.
THE WITNESS: He asked me if I spoke to anyone else.
(Pause.)
THE WITNESS: I don't have a specific recollection. I'm sure I spoke to other members of my staff because we were preparing for press inquiries, but I don't have specific recollections of conversations in addition to those I've testified to.
BY MR. GIUFFRA:
Q Do you recall when you spoke to the President during the day?
A I believe it was morning.
Q Was anyone else present during this conversation?
A Yes.

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Q Who else was present?
A Mr. Ickes.
Q Was anyone else present beside the President, yourself and Mr. Ickes?
A No.
Q Before speaking to the President, did you have a communication with Mr. Ickes on the morning of January 5th?
A Well, we walked over to the Oval together.
Q What do you recall about the communication you had --
Strike that.
Do you recall anything about the conversation you had with Mr. Ickes as you were walking over to the Oval Office?
A No.
Q What do you recall, if anything, about the communication you had with the President on January 5, 1996?
A I think, as with the other communications that we had, I'm prepared to tell you that the subject of the communication was notifying the

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President of the discovery of the billing records and their production.
Beyond that, I'm not prepared to testify.
Q Am I correct --
Strike that.
Is it your understanding that you were the first person to notify the President of the discovery of the records?
A I believe so.
Q And you would have advised the President prior to the production of these records to the Senate?
A I believe the communication with the President was in the morning. I believe the Senate received the documents in the afternoon.
Q So the record is clear, you won't answer any questions with regard to the substance of your conversation with the President and Mr. Ickes?
A I've always understood that the Committee was not going to ask questions that went to communications between lawyers and the President.
And if that's not the case, I'm not

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authorized to waive that privileged communication.
If you do intend to break with the understanding that I've heard the Chairman express from time to time, and the practice that appears to have been followed, I can consult on that. But I don't have the authority to waive that communication.
Q I think there's a distinction between communications that you might have had with the President and communications that Mr. Kendall might have had with the President.
A We're two different people.
Q In different positions.
Approximately how long was your conversation with the President?
A It was probably five minutes, no more than ten.
Q Do you know whether the President was advised prior to the production of these documents, the billing records to the Independent Counsel?
MR. IVEY: Could you repeat the question?
BY MR. GIUFFRA:
Q Was the President advised of the discovery

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of the billing records prior to the transmission of the records to the Independent Counsel?
A I don't know.
MR. WITTEN: Excuse me, can we talk?
(Discussion off the record.)
(Readback.)
MR. WITTEN: Thank you.
BY MR. GIUFFRA:
Q Did you have any further communications with Mr. Ickes on January 5, about the discovery of the billing records?
A I don't remember.
Q And you say you have no recollection at all or any specific recollection of any further discussion you had with Mr. Ickes on January 5 about the billing records?
A I don't understand the distinction.
Q When you say you don't know, it means you have absolutely no recollection of any further communications with Mr. Ickes on January 5.
A Do I know for sure that I didn't, no. I don't know for sure that I didn't.

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Q So it's your testimony that you just don't know whether you had any further communications with Ickes on January 5?

MR. WITTEN: Relating to this subject?

THE WITNESS: I'm saying I don't know that I didn't.

BY MR. GIUFFRA:

Q Do you think you may have?

MR. BEN-VENISTE: It meant that maybe she did.

MR. WITTEN: It's meant that for about the last five minutes.

BY MR. GIUFFRA:

Q Did you take any action with regard to these billing records following your meeting with the President?

A As a result of the meeting with the President?

Q Just any action, did you take any action with regard to the billing records following the meeting with the President, not as a result of, but just following the meeting?

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A I took no action as a result of the meeting with the President.

I took many actions with regard to the billing records after the meeting with the President.

Q What actions did you take after the meeting with the President with regard to the billing records?

A Principally related to preparing the records once we received them from Kendall for distribution to the press.

We also worked on a press statement and that's all I can think of right now.

(Pause.)

Q Just so the record is clear with regard to your communication with the President, would the assertion of executive privilege or attorney-client privilege or both?

A I'm not asserting anything. I'm saying I've never understood that you were going to inquire into this, so I'm not prepared to answer, and I don't have the authority to waive any privilege.

Q So what is the privilege that you could

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waive? Is it executive or attorney-client?
A Call it what you want, I can't waive it.
Q Did Mr. Kendall indicate to you on January 5, 1996, that he'd spoke with the First Lady about the billing records?
A Yes.
Q Did he say anything to you about what he'd discussed with the First Lady about the billing records?
A No.
Q He just indicated that he had spoken with her?
A That's correct.
Q And he had indicated that he had notified her of the discovery of the billing records?
A The conversation wasn't that specific. I just knew that he had had a conversation with her about the billing records.
Q Do you know whether the First Lady reviewed --
Strike that.
I show you a document. It bears Bates

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number S20532 through 20534.
(Handing document to witness.)
BY MR. GIUFFRA:
Q Who would have prepared that document?
MR. BEN-VENISTE: What is this?
MR. GIUFFRA: It's a statement of David E. Kendall, dated January 5 1996, draft.
(Pause.)
THE WITNESS: I'm not sure. It would have been something that my staff worked on.
BY MR. GIUFFRA:
Q Do you know whether Mrs. Clinton reviewed this statement?
Strike that.
Did there come a time on January 5, 1996, when Mr. Kendall actually issued a statement with regard to the discovery of the billing records?
A Yes.
Q Do you know whether the First Lady reviewed the final draft of that statement before it was sent out?
A No, I don't.

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Q Do you know whether she reviewed any of the drafts of the statements of Mr. Kendall on January 5, 1996?
A Any of the drafts that you have in your hand?
Q 20535.
A Let me just say, I don't believe she did, but I don't know for certain.
Q Do you know whether Ms. Williams reviewed any of the drafts of the final statement?
A I don't believe she did.
Q Do you know whether anyone on your staff --

Strike that.
Did anyone on your staff speak to Ms. Williams on January 5, 1996 about these billing records?
A No, I don't believe so. Not that I'm aware of.
Q I'd like to show you a document that bears Bates stamp 20541 and 20542.
(Handing document to witness.)

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BY MR. GIUFFRA:
Q Does that appear to be the final statement that Mr. Kendall issued on January 5, 1996?
MR. BEN-VENISTE: Did you say final statement?
MR. GIUFFRA: The actual statement, excuse me.
(Pause.)
THE WITNESS: I believe that document 20541 and 2 is the final statement.
BY MR. GIUFFRA:
Q Let me show you the statement bearing Bates number 20532 to 20534, and direct your attention to the sentence beginning "the records demonstrate that Mrs. Clinton did no work on the 1985 purchase of blank insert other positive news from the contents of the record."
Do you see that?
A Yes, I do.
Q In the final statement of Mr. Kendall, that sentence does not appear.
MR. BEN-VENISTE: I'm sorry, where are

you reading that?
MR. WITTEN: Was there a question?
BY MR. GIUFFRA:
Q Yes. You would note that that sentence does not appear in the final --
MR. IVEY: Which sentence?
MR. GIUFFRA: The sentence beginning "the records demonstrate that Mrs. Clinton did no work in 1985 purchase of blank insert other positive news from conference in the records."
MR. IVEY: And that's on document number?
MR. GIUFFRA: 20532.
MR. WITTEN: These drafts speak for themselves.
MR. GIUFFRA: Are you testifying now?
MR. WITTEN: You're asking the witness at 6:35 in the evening to tell you what you may already know about what a document you gave her says or doesn't say. That's not an efficient use of our time.
BY MR. GIUFFRA:
Q Do you recall any discussion on January

5th about whether to include the sentence beginning "the records demonstrate that Mrs. Clinton did no work on the 1985 purchase of blank, period?
A I recall a brief discussion in which we concluded that trying to describe the substance of these billing records, given the limited time we had to analyze them, was not advisable.

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Q Do you know whether Mr. Kendall spoke to Mrs. Clinton on January 5 about the substance of the billing records?
A No. I don't.
Q Do you know whether Mr. Ickes spoke to Mrs. Clinton on either January 4 -- strike that.
Q Do you know whether Mr. Ickes spoke to Mrs. Clinton on January 4 or January 5, 1996, about the billing records?
A No. I don't.
Q Prior to the transmittal of the billing records to the White House, did you speak to any non-White House employee about the transmittal to the White House?
A Prior to the transmittal of the records to the White House?
Q To the Senate; excuse me. It's been a long day.
A Not that I know of.
Q You don't recall speaking to Mr. Lyons about these records?
A No.

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Q You don't recall speaking to Mr. Blair about these billing records?
A No.
Q Did you speak to Ms. Wright about the billing records?
A No.
THE WITNESS: Could you just read back that last question?
MR. GIUFFRA: I'll just restate it.
BY MR. GIUFFRA:
Q On either January 4 or January 5, 1996, did you speak to any non-White House employees about the billing records?
A I believe I had a brief conversation with Mr. Ben-Veniste.
Q When did you have the conversation with Mr. Ben-Veniste?
A I believe it would have been January 5, probably shortly before the records were transmitted.
Q To the Senate?
A To the Senate.
Q What do you recall about the communication

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you had with Mr. Ben-Veniste on January 5, 1996, prior to the transmission of records to the Senate?
A Nothing.
Q Do you normally communicate with Mr. Ben-Veniste -- strike that.
Did you contact Mr. Ben-Veniste, or did he contact you?
A I contacted him.
Q Did anyone instruct you to contact Mr. Ben-Veniste?
A No.
Q Do you know why you contacted Mr. Ben-Veniste?
A I contacted him as a courtesy, to notify him that the billing records were being transmitted to the Senate momentarily.
Q You don't recall having any discussion with Mr. Ben-Veniste about the White House's response with regard to the discovery of these billing records?
A No.
Q Or strategy with regard to the response of

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the White House with regard to the billing records?
A No.
MR. WITTEN: This is one strange proceeding you guys have got going here.
BY MR. GIUFFRA:
Q What I'd like to now focus your attention to is the subject of communication with third parties about the location and existence of billing records.
Prior to the discovery of these particular records on January 4, 1996 -- you became special counsel to the President when? Strike that.
When did you join the White House staff?
A I was on the White House staff for a period of time in 1994, from about mid-April to mid-October. Then I returned to the White House staff on January 1 or 2, 1995, and I've been there ever since.
Q Prior to January 4, 1996, did you have any communications with non-White House personnel about Rose billing records?
A About Rose billing records that weren't made public by the House?
Q Assume that caveat.

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A No.
Q So the only communications that you had with anyone prior to the discovery of these records on January 4 would relate to the billing record the House made public in the course of its hearings in the summer of 1995?
A I didn't say I had discussions with anyone ever outside the White House, third parties, about Rose billing records ever.
Q So you've never had communication with anyone outside the White House about Rose billing records?
A I've never had communications about the discovery or about the document, the Rose billing records, that were not public. But then you said, "So then the only billing records you have had communications with." And all I'm saying is that you didn't ask me whether I had communications.
You can't back into the question that way. Now you want to ask me if I had communications with people about Rose billing records that were made public in the summer of '95, which is specifically

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what we said we weren't going to talk about. But I think it's a waste of time to even get into this, because I don't believe I had any such conversations.
Q You don't believe you had any conversation with any third parties about Rose billing records prior to January 4, 1996. Is that your testimony?
A About?
Q I'm asking the question about Rose billing records generally. I'm not putting any qualifiers on it about location, existence, or anything.
A Okay, so we're now off the agreement we reached yesterday?
Q Jane, you keep saying there was an agreement.
A You said you would get back to me last night if there was a disagreement, and you never called.
Q That is a misstatement.
MR. WITTEN: Did you call?
MR. GIUFFRA: I certainly did not agree to anything.
MR. WITTEN: All right. So --

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MR. GIUFFRA: I think the record should reflect that. I'm sure this will come up at the hearing on Thursday.

No agreement was reached. There was a discussion of everyone's position with regard to what the scope of the depositions would be. We said that we would try to see if we could avoid disputes, but certainly there was discussion at the hearing of the fact that there may well be disputes. And in fact, there was a discussion -- excuse me -- at the meeting of the fact that there may be disputes. Because there was discussion at the meeting about whether people would assert privilege at the hearing, and I specifically said during the meeting that we certainly were not going to foreclose the possibility that people might be asserting privilege during the hearing.

THE WITNESS: Neal Kravitz said at the end of that meeting, "Let's figure out now where the areas of disagreement are, so we don't have to have a public spectacle..." -- which appeared to be what you wanted -- "...about the assertion of privileges. We

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want to avoid that, so let's agree now."

You said that we couldn't agree, because you had to think about it. And I said that I thought the whole two hours had been a complete waste of time, and that you had been meeting in bad faith if you couldn't reach some sort of an understanding. You said that the only point you wanted to reserve on was this one we're dealing with right now: was whether or not you were going to inquire beyond the newly discovered billing records insofar as I may have had conversations with third parties.

You said you would consider it, and that you would get back to me by the end of the day, which you failed to do.

MR. GIUFFRA: That was not what happened in the meeting. Doug, you were at the meeting. Do you recall that communication or discussion?

MR. NAPPI: I recall a discussion about the possible meeting today, prior to the deposition.

MR. GIUFFRA: Certainly no agreement was reached.

THE WITNESS: If you had any problems that

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needed to be discussed, you never called.
MR. BEN-VENISTE: Obviously there hasn't been any notification of problems about the agreement reached at the meeting or the understanding reached at the meeting.
MR. GIUFFRA: There was no understanding reached at the meeting.
MR. BEN-VENISTE: Mr. Kravitz isn't here. Unfortunately, I was not at the meeting, and it's obvious that we're going to waste all of this time because there is a dispute about what was agreed to. The agreements have to be recorded somehow, but the issue is one of notification so that witnesses can be prepared to address issues, and I think that's quite reasonable.
The point which was made, which has come up before, on whether there would be some attempt to embarrass witnesses by springing questions on them at the hearings on the issue of revocation of privilege, given the political context of that, is well-taken. That's why I think it is useful for the parties to try to narrow the issues, as the Chairman has asked

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us repeatedly to do to the fullest extent possible.
Why don't we proceed?
MR. WITTEN: Here's my suggestion.
Let's put aside, at least for now, communications concerning the documents, the Rose billing documents, that were produced at the House hearings. Just put that aside for now.
You can ask, I take it, anything you want about anything else. When you get done doing that, if you want to ask some questions about what I'm putting aside, we'll decide at that point.
BY MR. GIUFFRA:
Q Let's put the discussions you might have had about -- just strike that.
There were a number of billing records that were introduced at the House hearings, correct? Just so we can identify the universe we're talking about.
A I know there were billing records that were made public in the course of the House hearings. I also know that this Committee made billing records public in the course of hearings in the fall.

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Q We're only talking about a handful of billing records, is that right?
MR. WITTEN: They are what they are.
BY MR. GIUFFRA:
Q Do you have any understanding as to the extent of the billing records we're talking about? It's about a handful?
MR. BEN-VENISTE: That's already been asked.
THE WITNESS: I don't know how many there were.
BY MR. GIUFFRA:
Q You would agree that it was a small amount of billing records?
A Right. I would agree that all those billing records constitute a small amount of billing records.
Q Including the records that were found in the residence?
A Yes.
Q Would you say it was less than 10 pieces of paper?

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A I don't know. I've never reviewed it.
MR. WITTEN: It is what it is. You have a hearing. It's got transcripts. They're marked as exhibits. It's 10 of 7:00.
BY MR. GIUFFRA:
Q Other than communications about billing records that were made public in congressional hearings, did you have any discussions about Rose billing records with anyone prior to January 4, 1996?
A With third parties?
Q Yes.
A No. Not that I can recall.
Q By "third parties," I mean persons who don't work at the White House.
A I exclude David Kendall from that.
Q Okay.
Other than Mr. Kendall and White House employees, it's your testimony that you did not have any discussions prior to January 4, 1996 about Rose billing records other than billing records made public at congressional hearings?
There are so many caveats in that --

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A Yes, I know. I cannot recall any discussions with anyone other than Kendall or White House employees about Rose billing records, other than those that were made public in House and Senate hearings.

Q So you would not have spoken with anyone at the Rose Law Firm about those billing records prior to January 4, 1996?

A No.

Q You would not have spoken to Mr. Hubbell about Rose billing records prior to January 4, 1996?

A And it's the same category of Rose billing records, I assume?

(Discussion off the record.)

THE WITNESS: Bob, why don't we just try and cut through this.

I don't recall any conversations with any third parties other than David Kendall about Rose Law Firm billing records prior to January 4, 1996.

BY MR. GIUFFRA:

Q Have you ever had any communications with Mr. Hubbell on anything having to do with the Rose

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Law Firm?

A No.

Q Do you know whether Mr. Kendall -- strike that.

Do you know whether Mr. Hubbell -- strike that.

Has anyone ever advised you that Mr. Hubbell possessed Rose billing records during the 1992 presidential campaign?

A I heard Susan Thomases' testimony that she believed that he had billing records when she had a conversation with him during the campaign. Beyond what has been publicly elicited in your hearings, no.

Q Have you had any communications with Ms. Thomases about just the Rose Law Firm generally prior to January 4, 1996?

A No. Wait. I may have had one conversation with her where she told me about some work she had done with the Rose Law Firm, or she was called in to do -- a management seminar at the Rose Law Firm years and years ago.

That would have been a conversation about

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the Rose Law Firm.
Q Do you know a man named Alston Jennings?
A No.
(Pause.)
Q I show you a record, Senate 20085, that indicates that Mr. Alston Jennings was at the residence on August 10, 1995 to visit the First Lady.
(Document handed to witness.)
BY MR. GIUFFRA:
Q You don't have any knowledge as to why he went there?
A No.
Q I show you another billing record. This indicates that on July 24, 1995 --
A You mean "movement record."
Q Movement record. Excuse me.
This has a Bates number, 20052. It indicates that you were in the residence at 12:30 and left at 12:48 on 7/24/95. Do you know why you might have been there?
A Yes.
Q Why were you at the residence?

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A Why don't you try and restate that question so you ask it in a way that's relevant to the Committee's investigation? If you want to ask me if I was there, I'm prepared to answer the question if you ask me if I was there in connection with anything to do with the personal financial records of the Clintons.
Q Because three people objected here. The question is simple.
Do you know why you were at --
MR. BEN-VENISTE: Why don't you just answer the question, and you can make it clear.
MR. WITTEN: The only question he's asked is, do you know why you were there? And the answer to that is --
THE WITNESS: Yes, I know why I was there.
BY MR. GIUFFRA:
Q Do you know why you were at the residence on July 24, 1995?
MR. WITTEN: Answer that in a way you deem appropriate.
THE WITNESS: I was there in connection

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with an inquiry related to personal financial records of the Clintons.

BY MR. GIUFFRA:

Q Did those personal financial records have anything to do with the subject matter specified in Senate Resolution No. 120?

A None whatsoever.

Q Was Nancy Hernreich with you on July 24, 1995, when you visited --

MR. WITTEN: She's already testified it had nothing to do with Senate Resolution No. 120.

MR. GIUFFRA: Ms. Sherburne's view as to what is within Senate Resolution 120 and the Committee's view as to what is within Senate Resolution 120 may be different.

MR. BEN-VENISTE: Therefore, what?

THE WITNESS: Therefore I need to answer whether I was with Nancy Hernreich. I was not with Nancy Hernreich.

MR. BEN-VENISTE: Do you have much further to go, Bob?

MR. GIUFFRA: Just a few more things.

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BY MR. GIUFFRA:

Q I show you a record that bears Bates number 20328, August 11, 1995. It indicates that Mr. Barnett and Ms. Williams were in the residence.

(Document handed to witness.)

BY MR. GIUFFRA:

Q Do you have any understanding as to why they were in the residence on this particular day?

A No.

Q Have you attempted to ascertain why they were in the residence on that particular day?

A Since January 5?

Q Yes.

A Yes.

Q Have you determined why they were in the residence on August 11, 1995?

A I have no personal knowledge. I wasn't there. I didn't go with them. So if you want to ask me a question about my personal knowledge, I'm prepared to answer it.

If you want to ask me about my work product in the counsel's office, that's a different

matter. And I know you're going to be deposing Maggie Williams. So why don't you ask her?

Q Has the White House tried to conduct an investigation to determine the circumstances surrounding the discovery of the billing records in the book room?

A No.

Q Has the White House attempted to conduct an investigation in terms of persons who might have -- strike that.

Do you have any understanding as to why Mr. Barnett and Ms. Williams were present on August 11, 1995?

MR. WITTEN: She already answered that.

MR. GIUFFRA: She said she doesn't have personal knowledge.

BY MR. GIUFFRA:

Q Has anyone told you -- the word "understanding." Has someone told you why they were present?

A I have a general understanding that, without waiving any work product privileges, if

you'll agree with that, I'll tell you what my general understanding is.

Q That's fine.

A My general understanding is that they were there discussing matters related to Mrs. Clinton's work.

Q A record bearing Bates number 20073, indicating that on 7/26/95, Cassandra Pulley and Maria E-c-h-a-v-e-s-t-e and Jim Lyons saw the First Lady in the residence. Approximately 6:38 was the arrival time.

(Document handed to witness.)

BY MR. GIUFFRA:

Q Do you know why they might have been there?

A No.

(Pause.)

Q Are you aware of a report of investigation that was issued by the RTC Office of Inspector General dated August 3, 1995?

MR. WITTEN: Is that what you're holding?

MR. GIUFFRA: Yes.

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(Document handed to witness.)
THE WITNESS: I have become aware of this. I don't believe I've ever seen a copy of it before.

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BY MR. GIUFFRA:
Q Let me show you a newspaper article dated August 5, 1995 from the Washington Post. "Report Reveals Rose Firm Role In Land Deal," by Susan Schmidt.
(Handing document to witness.)
MR. WITTEN: Do you want her to read this?
BY MR. GIUFFRA:
Q To save some time, have you ever seen this article before?
A Yes, I believe I saw it at the time. When did the hearings end last summer?
Q I think August 20th.
A Okay. Yes, I believe I saw this at the time.
Q Do you recall discussing, between August 3rd and August 15, 1995, the RTC IG report on the Rose Law Firm with anyone at the White House?
A No.
Q You don't recall discussing the RTC IG report with Mr. Ickes?
A No.

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Q You recall receiving an August 25, 1995 request for documents that Chairman D'Amato sent to then counsel to the President, Abner Mikva?
A Yes.
Q Could you just describe how you went about searching for documents responsive to that request?
A You can't be serious?
Q Were you the person at the White House in charge of responding?
A Why don't you ask me how we went about searching for Rose Law Firm billing records?
You know as well as I do that from August 25th forward, we had communicated to you repeatedly that we found your request incomprehensible and unmanageable, and that we had a series of negotiations over several weeks in which we attempted to narrow the request.
The request related to the Rose Law Firm billing records was finally defined in a way sufficient for us to search for it in your letter of October 17th.
Following that letter, we distributed a

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White House-wide request on October 23rd, in which we sought Rose Law Firm billing records.
Q Was the October 25th memorandum, which bears Bates Number 20528 through 20529, the first White House-wide memo seeking Rose Law Firm billing records?
(Handing document to witness.)
THE WITNESS: I believe you said this was October 25th. It's October 23rd.
BY MR. GIUFFRA:
Q Excuse me, I apologize for the error.
A And this is not, as you know, prior to October 23rd, we had produced many records responsive to this request, but this was the first White House-wide request that followed your letter of October 17th, when you finally gave us the cutoff date description that we needed in order to do this search.
Q What steps did you take in the effort to locate Rose Law Firm billing records?
A Well, you've got the search request in front of you, which would have been the White House-

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wide request. That was also elaborated on October 31st, I believe, after we got your subpoena. We also searched the counsel's office for what we had been referring to as primary source material. We searched the counsel's office because most of the primary source Whitewater material had already been collected in the counsel's office, and so there were files there that were likely to have material responsive to the earlier requests.

So we searched, prior to October 23rd, principally the counsel's office files, the files of the people from my team, and the files we had acquired in team for primary source material which we produced long before October 23rd.

Then on October 23rd, once we had the cutoff date with respect to our work product that you gave us on October 17th, we distributed the White House-wide request for the Rose Law Firm records.

Q The first White House-wide request would have been the October 23rd request, correct?

MR. WITTEN: She's already said that.

THE WITNESS: It is a little frustrating.

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You've asked me the same question three times.

MR. GIUFFRA: I want the record to be clear.

THE WITNESS: You want the record to be muddled.

MR. GIUFFRA: I don't think so.

This is the first White House-wide request --

MR. WITTEN: It still is. It's been the first White House-wide request for the last ten minutes.

Let's move along. It's late and we're not prepared to stay very much longer.

MR. GIUFFRA: You're certainly free to leave if you want. If this deposition's not concluded, we'll deal with it at another time and in another forum.

BY MR. GIUFFRA:

Q Now this memo of October 31, 1995, which bears Bates number 20530 to 20531 indicates, in the first paragraph, quote:

The White House response to these requests

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and therefore to the subpoena is largely complete eight days after the initial White House-wide request.

A I think the response date was November 2nd. We got the subpoena on October 30th. The response date was November 2nd. But you're expressing surprise that we could have met one of your short turn around times. Yes. By October 31st, from August 25th forward, yes. We had provided almost all responsive records to you, so by the time you decided to issue your subpoena, you had almost everything you needed from your August 25th request, yes.

Q But the October 23rd memo was the first White House-wide request.

MR. WITTEN: Don't answer that question.

She's answered it four times. At best you're arguing. At worst, you're just wasting time. Move along.

MR. GIUFFRA: Please lower your voice.

MR. WITTEN: I'm not going to lower my voice. You're abusing this witness. Now let's move

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along.

MR. GIUFFRA: I think the record will reflect that you are engaging in improper conduct. We'll let the record speak for itself. And trying to prevent the Committee from ascertaining facts that are relevant to its investigation.

MR. WITTEN: Baloney. The fact, sir, that you are on a Government salary, does not entitle you to accuse people of obstructing anything. Just ask your questions, ask them once, get the answer and move along.

(Handing document to witness.)

BY MR. GIUFFRA:

Q With regard to the October 23, 1995 memo, do you know whether a copy of this memo was sent to Ms. Huber?

A Yes, I believe it was.

Q What's the basis for your belief that this memo was sent to Ms. Huber?

A She would have been on the distribution list if you look at the top of the memo. Why don't you give it back to me?

(Handing document to witness.)
THE WITNESS: It shows memorandum for all staff at the White House Office, which she would have been in the office. I see here you have highlighted the Correspondence Office can disregard this request. I believe you came back later and said that the personal correspondents could not disregard the request.
I'll have to look at one of your letters to determine that for sure. But I understand that Caroline Huber has said that she received this.
BY MR. GIUFFRA:
Q What's the basis for your understanding that Caroline Huber had received this?
A What I just said. I understand she said that. I don't know where I heard that. I don't know if she said it to me. I understand that she has said she received that memo.
MR. GIUFFRA: Let's go off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q Did anyone from your office contact Ms.

Huber about the Senate document request?
MR. WITTEN: Other than by sending this letter?
BY MR. GIUFFRA:
Q Other than by sending the letter?
A I don't believe so. The document request would have gone to approximately 500 people.
Q So in responding to the Senate's document request, you were relying on written communication in the form of these memos, this memo?
A That was one form of reliance, yes.
Q What else did you do to comply with the document request?
A I've already told you that we searched the files in the counsel's office where most of the relevant material had already been collected. And responded with that material as well.
Q Then the Senate subsequently served a subpoena. I believe it was dated October 30. Then you sent out this memo on October 31 which would be the memo bearing Bates Number 20530 and 20531, correct?

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A Correct.
Q Do you believe Ms. Huber received this memo?
A I don't know. I believe she should have. Let me look at --
(Pause.)
This doesn't have the exclusion that you permitted us to include in the October 23rd request, so I believe in the normal course of the distribution, she would have been on that distribution.
Q And again, would anyone have contacted Ms. Huber by telephone to ascertain whether she had the responsive documents?
A No.
Q Did anyone from your staff at any time search Ms. Huber's office in the East Wing of the White House for responsive documents?
A No.
Q So you were relying on Ms. Huber to search her own office?
A As we relied on the other 500 employees

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who got this memorandum.
Q Now with regard to the President and Mrs. Clinton's documents, what steps did you take to search for Rose billing records among those documents?
A I'm not sure I understand what those documents refer to.
Q Let me rephrase the question.
Did you take any steps to search for documents responsive to the Senate subpoena that might be in the files of the President or the First Lady?
Let's just do that, official files.
A In their official files? The request would have gone to the Office of the President, the Oval Office Operations, to the staff that works there. The request also would have gone to the Office of the First Lady and the employees in that office. And so those individuals would have reviewed and searched the relevant files, the official files.
Q Persons in those offices?
A That's correct.

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Q What about documents that might be responsive to the Senate subpoena that were within the residence of the President and Mrs. Clinton?
A I wouldn't regard documents in the residence of the President and Mrs. Clinton as responsive to the Senate subpoena.
Q Why would you not regard documents contained in the President and Mrs. Clinton's personal residence as responsive to the Senate subpoena?
A Because I would regard them as personal records and not White House records. And the subpoena called for White House records. It was served on the White House.
Q So then, in searching for documents, you draw the distinction between documents that might be contained in the personal residence and elsewhere in the White House complex?
A It's more of a distinction between personal records and official records. I know you sent a similar request to David Kendall, and so I believe to the extent that there may have been any

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personal records in the residence responsive to any of the Committee requests, those would have been records that Mr. Kendall would have searched for.
Q Do you have any understanding as to the steps that Mr. Kendall took to search for Rose Law Firm records?
A No.
Q Do you know whether the President and Mrs. Clinton ever take official papers to the residence?
A I don't know.
Q I think you testified before that you've had communications with Mr. Kendall about Rose billing records. Is that correct? Other than records that have been made available in Congressional hearings?
A Yes.
Q What communications have you had with Mr. Kendall about Rose billing records?
A I would regard those communications as privileged.
Are you talking about the discovery or the existence of Rose records?

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Q I think you've already testified about communications you had with Mr. Kendall about the discovery of the records?
A Right.
Q So my question is, prior to the discovery of the records, did you have any, on January 4th, 1996, did you have any communication with Mr. Kendall about Rose billing records.
I believe your testimony was you had.
A About Rose billing records other than those that were made public?
Q I'll put that caveat in.
A Which would necessarily have been a conversation about the existence of Rose billing records because if they didn't exist, we couldn't have talked about them.
So, yes, we did have conversations about the existence of Rose Law Firm billing records.
Q Do you recall when you had those conversations?
A No.
Q Do you recall anything about the substance

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of those conversations you had with Mr. Kendall about the existence of Rose billing records?
A This is another area where I'm not sure I have the authority to waive privileges. I don't know if I can or can't answer that. But if you intend to pursue it at the hearing, I'll find out.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
(Recess.)
(Readback.)
THE WITNESS: We've consulted, and I believe this question goes to the conduct that you're inquiring about which is efforts to search for records, and so I believe it is within the scope of what we said we would be willing to waive and talk about.
So the answer to your question, which I believe was, do I remember anything about the substance of the communications with Kendall about the non-public Rose Law Firm billing records.
The answer to that question is, yes, I do.
BY MR. GIUFFRA:

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Q What do you recall about the substance of the conversation with Mr. Kendall about those Rose billing records?
A The conversation was to try and understand what records were missing. And Mr. Kendall told me, at some point along the way, that there were some Rose Law Firm Madison bills that were available. And I knew that from what I'd seen in the House. But that what the Rose Law Firm did not have was the underlying attorney detail for the bills.
Q Did Mr. Kendall indicate to you that he had been in communication with the Rose Law Firm in an effort to try to locate Rose billing records?
A No.
Q Can you recall anything more about the substance of your communications with Mr. Kendall with regard to Rose billing records, qualifier.
A Other than those that were made public?
Q By Congress.
A And this was at any time prior to their discovery on January 4th?
Q Right.

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A No.
Q Do you recall any communications you might have had with anyone else at Williams & Connolly about the substance --
Strike that.
Did you have any conversations with anyone else at Williams & Connolly about non-public Rose Law Firm billing records prior to January 4, 1996?
A Not that I recall.
Q During the course of the conversation you had with Mr. Kendall, did the subject of Castle Grande come up, or IBC?
A I don't believe so.
Q Do you recall any discussions --
Strike that.
Have you seen a document?
A I don't believe -- some of it may have.
Q Do you have any recollection as to the context in which Castle Grande or IDC arose?
MR. WITTEN: May have.
BY MR. GIUFFRA:
Q May have arisen in your discussion with

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Mr. Kendall?
MR. WITTEN: Concerning the billing records of the Rose Law Firm.
THE WITNESS: One of the bills reflected IDC work, one of the public bills.
BY MR. GIUFFRA:
Q Was this the January 30, 1996 bill?
A I don't remember.
Q This would be a bill that bears Bates Number 29010.
(Handing document to witness.)
THE WITNESS: Is this the one the Committee used in the fall?
MR. GIUFFRA: This is off the record.
THE WITNESS: No, we can keep it on. It'll place the conversation.
I know that there was an IDC bill, I think it was this one that the Committee used in the fall. I may have had a conversation with Kendall about where the underlying attorney detail was in connection with this bill, and I don't know if we discussed Castle Grande or IDC in that context or

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not. We may have.
BY MR. GIUFFRA:
Q Did Mr. Kendall indicate to you that he'd undertake an effort to try to locate the so-called billing memorandum that's related to that bill?
A I don't remember if we discussed that.
(Pause.)
Q Have you had any other discussions with Mr. Kendall about efforts to respond to the Senate subpoenas?
A Any Senate subpoena?
Q Relating to Whitewater or Madison.
MR. WITTEN: You're asking her for any other conversations with David Kendall ever about any?
MR. GIUFFRA: No. Efforts to locate documents responsive to Senate subpoenas relating to Whitewater Madison. I'm trying to be broad so we can conclude the deposition.
THE WITNESS: I probably did. I don't recall any specifically.
BY MR. GIUFFRA:

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Q Is there any sort of, just so we have the demarcation with regard to searches, if it's in the residence of the White House, it's Mr. Kendall's responsibility?

Anywhere else, it would be the White House Counsel's responsibility in terms of responding to the subpoena?

A Well, anywhere else?

Q In the complex?

A No. We would have regarded White House records as the ones that the White House counsel's office was responsible for locating and producing.

Personal records of the Clintons' would have been records that Mr. Kendall would have been responsible for producing.

Q If there's a document located in the official residence that has not denominated official or personal, who'd be responsible for searching the residence, Mr. Kendall, correct?

A That's right.

Q Has any agent, yourself, or anyone else i the White House Counsel's Office ever conducted a

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document search, search for documents in the residence of the White House?

A No.

Q As far as you know, Mr. Kendall has conducted such searches?

I'll restate the question.

Do you know whether Mr. Kendall has ever searched for documents responsive to the Senate subpoena in the White House residence?

A I'm not familiar with the steps Mr. Kendall took to respond to the Senate subpoena. I know that he produced 30,000 documents from somewhere, but I suspect he had already collected most of those documents in his law firm by the time your Senate subpoena arrived.

Q Let's just exclude responding to the Senate subpoena.

Do you know whether Mr. Kendall has ever conducted a search for documents in the White House residence, for documents that might be responsive to the Senate subpoena even prior to the service of that subpoena?

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A I'm not sure I understand. You said it doesn't relate -- excluding the subpoena? Responsive to the subpoena? Are you talking about the August 25th or whatever letter he got?

MR. WITTEN: Can't we ask what Mr. Kendall did?

MR. GIUFFRA: I'm going to ask Jane what Mr. Kendall may have told her he did.

BY MR. GIUFFRA:

Q Do you have some understanding that Mr. Kendall may have responded to the Senate subpoena and may have relied on searches that he may have conducted to other subpoenas by other investigatory agencies?

A I don't have much of an understanding at all about how Mr. Kendall went about his document searches.

Q Do you have any understanding as to how Mr. Kendall undertook his document searches just with regard to the White House residence?

A The only thing I know is that there was a period of time when members of Mr. Kendall's law firm

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reviewed documents in the residence that had been collected there. And I don't know much more than that.

Q Do you know any more about that process?

A No. Other than that documents were collected from various parts and that he worked closely with Caroline Huber. And that the review process took a couple weeks.

Q Do you know when this review process occurred?

A I think it was the summer of '94 at some point.

Q Did you have any communication with Ms. Huber about this review process?

A No.

Q Have you ever had any discussions other than on January 4, 1996 with Ms. Huber about collecting documents that might be responsive to subpoenas issued by investigatory agencies bearing on Whitewater and related matters?

A I don't believe so.

(Pause.)

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Q Just so the record is clear, with regard to the October 23 memo, you believe Ms. Huber received a copy of it because she had not been carved out of the letter as I sent it?

MR. WITTEN: Excuse me, Jane. To be repeating what you've said at least twice.

THE WITNESS: I believe she received a copy because I heard from some source that I cannot remember that she said she received a copy.

BY MR. GIUFFRA:

Q Someone's told you that Ms. Huber received a copy of the documents in response to this memo?

A Someone's told me what?

Q Someone has told you Ms. Huber received this memo and looked for documents?

MR. WITTEN: Bob, this is at least the fourth --

THE WITNESS: I didn't say that. Nobody told me. I said that somebody told me that she had received it. Nobody told me anything about whether she looked for documents, so don't characterize my testimony.

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BY MR. GIUFFRA:

Q Who told you?

A I don't remember who told me.

MR. WITTEN: You've asked her, she's answered it.

(Pause.)

BY MR. GIUFFRA:

Q What steps were taken to look for responsive documents that might have been contained in the files of former White House employees?

A What steps were taken to find billing records?

Q Just documents generally.

A It depends on what request, what subpoena. There's an Office of Records Management and for the request where you specifically identified the people who you're interested in, we'd ask Records Management to search their files.

Q Does Records Management, if someone leaves the White House, are they allowed to take some documents with them?

A Well, there's a Presidential Records Act

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that identifies what people can --
Q Take and not take?
A I think you can take copies, but I think you have to leave certain categories of documents in the White House and send it to Records Management. So our document request typically would go to Records Management and they could search the relevant files.
Q So personnel from the White House Counsel's Office would not be involved in that search?
A Sometimes they have been because sometimes some of your requests have retrieved like 150 or 180 boxes, and Records Management only has I think two employees or three employees that do this work.
So sometimes they would say, we've got 180 boxes we need to go through. You say you want it by, you know, one of your five-day turn around times. We can't possibly do that unless you send us some help.
So sometimes the counsel office lawyers would participate in that review.
(Pause.)
Q You indicated that one of the primary

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means by which you search for documents in response to the Senate subpoena was to search documents that the counsel's office had collected in response to other subpoenas by other investigatory agencies?
A No. I didn't say why we collected them. I think I said that we had collected the relevant universe of documents in the course of doing the work. Some of it certainly would have been in the course of responding to other document requests.
Q What steps did you take to respond generally to other document requests or subpoenas that were served relating to Whitewater or related matters?
A I'm sorry, what? From the Senate?
Q No.
MR. WITTEN: The world.
Literally, the question is what did you do to respond to any requests that the White House got from anybody in the world, other than the Senate.
THE WITNESS: The steps generally would be similar to the ones described in that October 23rd memo.

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BY MR. GIUFFRA:
Q So your normal practice would be to send a White House-wide memo or memos to persons who would have potentially --
Let's just strike that.
You'd send a White House-wide memo?
MR. WITTEN: Bob, excuse me. She's already testified to this at length. It's quarter to 8:00.
Every time you attempt to recharacterize it, you get it wrong. Then we have to cross the process where we have to correct you. And you recharacterize it again, and ask it for a third or fourth or fifth time, get it wrong again.
She's testified to the procedures.
Now the characterization you were in the process of making when I interrupted you was not a complete or accurate description of what she said, and I'm not going to sit here at quarter of 8:00 and have her explain it to you again.
If you want to muddy the record, you're doing a fine job of it.

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If you want a straight record, you will not attempt to characterize what the witness has said.
MR. GIUFFRA: The record will reflect that you are the one that's muddying the record.
BY MR. GIUFFRA:
Q What I am trying to ascertain is the following:
One, I believe, Ms. Sherburne, you've testified --
MR. WITTEN: Don't characterize her testimony. Ask questions and let's get out of here. Every time you characterize her testimony, you get it wrong.
MR. GIUFFRA: I'm the one asking the questions. You're free to object if you want. You're free to instruct Ms. Sherburne not to answer the questions. Consequences will flow from both of those acts.
BY MR. GIUFFRA:
Q In responding to the Senate subpoena, you looked through files which reflected documents you

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collected in response to other searches.
A Wait a minute, wait a minute.
I don't want to make a categorical statement about responding to the Senate subpoena, Bob, because we did lots of different things to respond to the Senate subpoena over time.
I'm comfortable talking about the billing records and what we did to respond to the billing records. And it was the two. We did the White House-wide request, two of them. And we did the search of the records that we had already collected for a variety of reasons within the counsel's office for the so-called primary source material that we started producing to you, you know, in September.
Q My question, how did you go about collecting the so-called primary source material?
A Okay. That was material we had already collected in the counsel's office. It was material from my files, material from David Fein's files, material from Shiela Chesten's files, material from Neil Eggleston's files, material from Bruce Lindsey's files, people in the counsel's office who, at the

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time we were looking at this, you know, and into the past, as in the case of someone like Neil Eggleston who had collected their own library, if you will, of relevant Whitewater materials. Those were the files we searched. We had boxes of those kinds of materials and file drawers of those kinds of materials that we looked through in September and the beginning of October, to try and respond to the request, at least as it had been articulated at that time.
Q Did the primary source material also consist of documents that you had gathered by searching the offices of White House employees in response to subpoenas or document requests by other investigatory agencies?
A Normally what we do, when we do a document production, is that we retain a set of the documents. And so for any document production we've done, for example, the White House Treasury contact documents that we had produced to you guys in the summer of '94, we would have looked through those documents to see if there were any primary source materials that

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were responsive to your requests.
So I believe we would have looked through, as I said, all the documents that were in the possession of the counsel's office that our team essentially had responsibility for.
MR. WITTEN: Including those gathered previously for any purpose whatsoever.
THE WITNESS: Right.
MR. GIUFFRA: That was my question.
BY MR. GIUFFRA:
Q The primary source materials would include document productions that the White House had made in response to subpoenas and document requests by other investigatory agencies?
A Yes.
Q In responding to subpoenas and document requests by other investigatory agencies, did White House counsel personnel themselves search for records within the relevant files?
A I think I already said that the practice we followed was similar to the practice that we used in the October 23rd memo, unless there would have

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been a targeted focused request. Sometimes you've come to us with requests for, say, all the phone messages between Bruce Lindsey and somebody else.
MR. WITTEN: This question relates to requests to somebody other than the Senate?
THE WITNESS: Well, the House. The House asked that if they had a focused targeted request, our participation in the search would be different than what is reflected in this October 23rd in the practice that's embodied in this October 23rd memo.
So it depends on the request. When you say any other request, I can't answer the question broadly.
BY MR. GIUFFRA:
Q Would the primary source material encompass productions of documents by the White House in response to subpoenas of Independent Counsel?
A You just don't give up, do you?
Yes, it would.
(Pause.)
MR. WITTEN: It's ten of 8:00. How long do you intend to proceed.

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MR. GIUFFRA: Almost done.
BY MR. GIUFFRA:
Q Do you know of any instance in which anyone from the White House Counsel's Office has ever searched Ms. Huber's East Wing office?
MR. WITTEN: Prior to January 4?
BY MR. GIUFFRA:
Q Prior to January 4, 1996.
A No, I don't.
Q Have you ever informed the First Lady -- Strike that.
Did you inform the First Lady of the Senate's document request dated August 25, 1995?
A No.
Q Did you inform the First Lady of the Senate subpoena of October 30, 1995?
A Are you asking these questions in terms of me personally and her personally, or her office and the counsel's office?
Q You personally.
A No.
Q Do you know if the First Lady was advised

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of the documents sought by the Senate in its document request dated August 25, 1995?
A I don't know. Does that request mirror what Kendall had?
Q Not exactly.
A I did not personally advise her of the August 25th request.
Q Did anyone in your office advise her of the August 25th request, send her a copy?
A Personally?
Q Yes.
A Not that I'm aware of.
Q Your communication with the First Lady would just have been with her office, and what was routed to her office you just don't know about?
A It would have been with the individual employees in her office.
Q But not directly to the First Lady?
A It would have gone to the office of the First Lady. You know, I'm not actually positive about that. I'd have to look at the distribution list to see if there's one that would specifically,

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if there's a label specifically for her. I'm not sure.

Q With regard to the Senate subpoena, would you know whether she would have received a copy of either the subpoena or of the memo of October 31, 1985?

A Of the subpoena or of the memo, either one? I don't know.

(Pause.)

Q Have you had any discussions with Margaret Williams about Rose Law Firm billing records prior to January 4, 1996?

MR. WITTEN: You've asked this one already, sir.

MR. GIUFFRA: We did locations.

THE WITNESS: No, not that I recall.

BY MR. GIUFFRA:

Q The First Lady?

(Pause.)

A Yes.

Q When did you speak to the First Lady about Rose Law Firm billing records?

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(Discussion off the record.)

THE WITNESS: I believe it probably would have been some time in June of '94.

BY MR. GIUFFRA:

Q Why do you believe it would have been in June 1994?

MR. WITTEN: Don't answer that question.

MR. GIUFFRA: You're instructing her not to answer the question?

MR. WITTEN: You heard what I said.

MR. GIUFFRA: Is this an assertion of privilege? Or is it because you don't like the question?

MR. WITTEN: That's a fair question.

I believe that the answer would necessarily involve testimony about an area that it is my understanding has been beyond the scope of your permissible inquiry.

MR. GIUFFRA: Please go off the record.

MR. IVEY: No.

MR. WITTEN: Just move along.

MR. GIUFFRA: You mean if Ms. Sherburne

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had a discussion with the First Lady about Rose Law Firm billing records, how could that be beyond the scope of our inquiry?

MR. WITTEN: That's not the question you asked. The question you asked was how was she able to date.

The answer to that question I believe would require this witness to testify about areas that are beyond the scope of this inquiry. If asked other questions about this, our response may be different.

BY MR. GIUFFRA:

Q What do you recall about this communication you had with the First Lady about Rose Law Firm billing records in June, 1994.

A You're asking me about the substance of my communications with the First Lady?

Q Yes.

A I cannot answer. You're talking about the substance of Rose billing records, not missing records, not the existence of records, or the location of records, but the substance of records.

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Q Why don't we try to just break it down?

MR. WITTEN: Good.

BY MR. GIUFFRA:

Q Did you discuss with Mrs. Clinton the location of the Rose Law Firm billing records?

A No.

Q Did you discuss with her the fact that there were missing Rose Law Firm billing records?

A Not that I recall.

Q Did you discuss with Mrs. Clinton the substance of her work as a lawyer at the Rose Law Firm?

MR. WITTEN: You can answer that yes or no.

THE WITNESS: Yes.

BY MR. GIUFFRA:

Q Did you discuss with Mrs. Clinton the substance of anything contained in the Rose billing records, or that might be contained in Rose billing records?

MR. WITTEN: Answer that yes or no.

THE WITNESS: Not that I recall. It's a

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strange way to ask the question. I don't know what may or may not be reflected in Rose billing records. We weren't talking about missing Rose billing records.

BY MR. GIUFFRA:

Q Were you discussing Rose billing records?

(Discussion off the record.)

THE WITNESS: I'm not going to disclose the substance of the communication. The subject of the communication was the fee recap. I don't know if you regard that as a billing record or not.

Bob, I'm not going to answer the questions about the substance of the communication.

BY MR. GIUFFRA:

Q Do you recall having discussions about the fee recap with anyone else in June 1994?

A Yes.

Q Who did you have discussions with in June of 1994 about the fee recap?

A I believe it would have been Mr. Kendall and David Fein.

Q When you spoke to the First Lady, who was

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present at the meeting?

(Discussion off the record.)

MR. GIUFFRA: Why don't you read the pending question.

(Readback.)

THE WITNESS: I believe Mr. Kendall was present, and I believe David Fein may have been present as well.

BY MR. GIUFFRA:

Q Was the meeting in the White House residence or in Mrs. Clinton's office in the West Wing?

A It was in the residence.

Q Approximately how long did the meeting last?

A I don't remember.

Q More than an hour or less than an hour? A brief meeting, a long meeting?

A You're suggesting that the meeting was about that issue.

Q How long did the meeting take?

A I don't know. It could have been a couple

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of hours.
Q Now did you have any other conversations with Mr. Kendall about the fee recap on those other occasions besides this meeting you had with the First Lady in June of 1994?
A I may have.
Q Do you know approximately how many communications you might have had with Mr. Kendall about the fee recap?
A It would have been few if it was any beyond that, this one that we've been talking about. It would have been very few.
Q And you would not have discussed the fee recap with anyone at the Rose Law Firm?
A No.
Q Or with Mr. Hubbell?
A No.
Q Or Mr. Kennedy?
A No.
Q Have you ever discussed anything to do with the Rose Law Firm billing records with William Kennedy?

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(Pause.)
A I don't believe so.
Q Did you ever discuss anything having to do with the Rose Law Firm billing records with the President, other than the meeting on January 5, 1996?
A Not that I recall.
Q Did you ever discuss anything having to do with Rose Law Firm billing records with Mr. Ickes other than the conversations you've talked about on January 4 and 5, 1996?
A Not that I recall.
Q Did you ever discuss anything dealing with the Rose Law Firm generally with Mr. Ickes prior to January 5, 1996?
A I may have. I don't remember any specific conversations.
Q Okay. I'm almost done. I just want to go through this.
MR. WITTEN: Thank you.
(Pause.)
BY MR. GIUFFRA:
Q Were there any meetings organized to

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coordinate a response to the Senate subpoena?
A Were there any meetings organized?
Q Let me strike that.
Did you have any meetings with non-White House counsel staff in connection with responding to the Senate subpoena?
MR. WITTEN: Not including Kendall?
MR. GIUFFRA: Yes.
THE WITNESS: I don't remember.
BY MR. GIUFFRA:
Q Do you recall anything about any meetings you might have had with Mr. Kendall about responding to the Senate subpoena?
A About the White House response to the subpoena on the White House?
Q Yes.
A I don't know. I may have.
Q Do you recall anything about those communications?
A Why do you think you're entitled to that?
MR. IVEY: Could you read back the question?

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THE WITNESS: Maybe I'm just getting tired, but all of a sudden, you're asking me about my communications with the people that I work with all the time and it's just starting to seem like you're fishing around in areas that have nothing to do with the discovery of the billing records.
MR. IVEY: Wait. Let me hear the question.
(Readback.)
THE WITNESS: I may have. I don't have a specific recollection.
(Pause.)
BY MR. GIUFFRA:
Q In responding to the Senate subpoena, would your office have contacted former staff to see whether they took any documents with them that they shouldn't have taken?
A That they shouldn't have taken? No.
Q Would you have contacted former staff to see whether they had taken -- strike that.
In responding to the Senate subpoena, would you have contacted former staff of the White

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House?
A May have.
Q Do you recall any instances in which you may have done that?
A Not particularly. There are certainly occasions where we may have questions about documents, what they mean, if they're responsive. We may get documents from one person that we'd also expect to find in somebody else's file. We may call them.
There have been occasions where people have taken White House records with them, not realized it, and then through their lawyers, whom we may be working with, realized that they have records in their personal possession that should have gone back to the White House.
I mean, this happens all the time.
(Pause.)
Q When did the White House first make an effort to retrieve electronic mail in response to the Senate's document requests or subpoenas?
A When did we first make efforts to retrieve

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electronic mail? Well, I don't think you defined your request until October 17th sufficiently for us to even make any attempt whatsoever.
And at that point, we notified you of cost and the difficulty we had in identifying a way to pay for it, and asked for an opportunity to consult with the Committee about how we might pay for it.
So I would say that responding to your October 17 letter was probably the first attempt we made to try and set in motion the process that would enable us to retrieve the E-mail.
There was also that one week of E-mail that you wanted from 1994 that we retrieved for you last fall at some point. That was outside the period where E-mail had not been maintained.
Q When -- did there come a time prior to October 17, 1995, when the White House made an effort to retrieve E-mail that might be responsive?
A To the August 25th letter?
Q No, strike that.
Did there come a time prior to October 17, 1995, when the White House first made an effort to

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retrieve E-mails relating to Whitewater and related matters in response to the subpoenas or document requests by any investigatory agency?

A You're trying to back into an impermissible question, I can tell you.

MR. WITTEN: Putting Independent Counsel aside.

MR. GIUFFRA: That is not an impermissible question.

THE WITNESS: Well, Bob, I have told you repeatedly that if we had E-mails in the White House that we have obtained for any purpose that have any material in them that is responsive to the subpoena, you have either gotten them already or you will get them as they are created.

MR. GIUFFRA: That's not the question.

THE WITNESS: It should answer the question.

BY MR. GIUFFRA:

Q The question was --

A I'm not answering that question, damn it. I'm sick of this. I am totally sick of this. I have

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had it. I told you that any E-mail that we have in the whole damn White House that is responsive to your request that we have been able to retrieve from the beginning of time to tonight you have.

Q That's not my question.

A You don't need to ask any other question.

MR. WITTEN: It's now 8:12. The witness is tired. I am tired. This examination has gone on for a very long time. If you've got questions you can ask in the next five minutes, ask them. And then we're leaving whether you're done or not.

MR. GIUFFRA: You're free to do what you'd like to do.

THE WITNESS: Just finish asking your questions.

BY MR. GIUFFRA:

Q Has the White House ever asked for bids to be submitted with regard to the retrieval of E-mails relating to Whitewater, Madison and related matters?

A I don't know how the bid process has worked and I would be surprised if the bid process specifically mentioned Whitewater Madison.

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But I know that the Office of Administration has undertaken some sort of a process to obtain outside support to comply with various requests for E-mail.

Q Do you know when the Office of Administration first made requests for such E-mails?

A No, I don't.

Q Has your office made an effort to contact the contractors with regard to the retrieval of E-mails?

A I don't understand your question.

Contact them directly for the purpose of?

Q Trying to retrieve E-mails.

A I don't understand your question. We don't have the authority to contract with anybody.

Q Have you had discussions with the Office of Administration about efforts to retrieve E-mail in any way relating to Whitewater or Madison?

MR. WITTEN: It sounds to me like a subject for negotiation, not a deposition.

THE WITNESS: It has been the subject of many negotiations. Yes, we have.

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BY MR. GIUFFRA:

Q Do you recall when you first contacted the Office of Administration?

Believe me, I'm virtually done.

A To respond to the Senate subpoena?

Q No, not to respond to the Senate subpoena, to respond to any subpoena related to E-mails related to Whitewater or Madison?

A No, I have no recollection of that.

Q Do you know whether that would have been prior to August 25th, 1995?

A I don't know. As we've told you repeatedly in our numerous negotiations on this subject, including up to last week, we've had numerous requests for E-mail a long way. We've given you many, many estimates of what it's going to cost, how much time it's going to take.

We've gotten E-mail on Foster-related issues that are arguably Whitewater related or at least were within the jurisdiction of the so-called Special Committee to investigate Whitewater. And all of the estimates that we've gotten related to cost,

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time consumed, and the complexity of the E-mail. All of our understandings about the technology required and why it's unavailable, all come from communications that we've had from people from the Office of Administration.

Q My only question is when did you first have these communications with the Office of Administration, if you know?

A Well, it would probably be, I think the first successful E-mail retrieval project we had was in the summer of '95, so getting that work done probably would have required conversations with them in the early summer of '95.

Q Did there come a time in October 1995 when bids, do you know, were submitted to the Office of Administration with regard to the retrieval of E-mail?

MR. WITTEN: Do you really need to ask this under oath in a deposition?

MR. GIUFFRA: Yes.

THE WITNESS: Why?

MR. WITTEN: You've got about a minute.

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Let's go.

THE WITNESS: I don't know.

BY MR. GIUFFRA:

Q No recollection?

A As I said, the bidding process is something that is not handled by the counsel's office. We don't do that.

(Pause.)

MR. GIUFFRA: I don't have any further questions. I do want to state something on the record.

MR. IVEY: I want to hear your statement.

MR. GIUFFRA: Do you have any questions?

MR. IVEY: I don't know what you're going to say. I don't have any questions at this point.

MR. GIUFFRA: Two things I want to make clear on the record.

Consistent at least with what the majority's understanding is with regard to any agreement or lack thereof with regard to scope of examination. Yesterday, and at the request of Ms. Sherburne and Mr. Kendall, I and Ms. Fisher attended

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a meeting in the hearing room. At this meeting discussion concerned areas about which the White House and Mr. Kendall respectively might assert privileges that they might possess with regard to areas of inquiry.

At the meeting, we identified three areas about which inquiry might be had; search protocols, discovery of records on January 4th in productions to the Committee, and communications with third parties about the billing records. The review of the White House logs with regard to entries and exits into the residence.

At this meeting, it's at least my belief and understanding Ms. Sherburne indicated areas about which she would want to assert some privilege or refuse to answer the question.

Mr. Kendall indicated areas about which he would assert the privileges that his clients might possess with regard to areas of communication.

The majority staff indicated that it would attempt to be cognizant of these areas but that it was not agreeing to anything with regard to what the

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scope of the Committee's inquiry would be.

MR. IVEY: I would just say --

MR. GIUFFRA: You can say it.

MR. IVEY: I'm not even going to disagree with what you're saying. All I'm going to say is that the record is filled with points where both sides have laid out on the record their views of what took place at the meeting and all of those privilege issues I really don't think you need to recap.

MR. GIUFFRA: I want to recap it and it's my prerogative to recap it, and I'm going to recap it because I suspect it will come up on Thursday.

THE WITNESS: Bob, I don't know that it needs to come up on Thursday. If we can identify areas --

MR. GIUFFRA: I just want to make sure this is on the record. There's no agreement as to areas that are within bounds or out of bounds.

The purpose of the meeting was just to identify where privilege was to be asserted and not asserted.

With regard to the question as to whether

anyone would have to assert any privilege or refuse to answer questions during the hearings, I indicated that the majority was not entering into any agreement not to do that, and in fact that there might be instances in which witnesses would be asked on the record to ask questions, and the witness would be free to answer the question, or if they wanted to assert some form of privilege or refuse to answer the question, they could do so.

We haven't agreed to not have witnesses refuse to answer questions at the hearing, and have this all worked out in advance.

MR. WITTEN: We will respond in writing to that twisted and inaccurate description of yesterday's meeting.

MR. GIUFFRA: At which you were not present.

MR. WITTEN: And I want to put on the record a request that if the Committee, either its majority or its minority, seeks to question this witness about any areas where questioning has occurred today, if the Committee is going to seek to

do that at the hearing on Thursday, give us notice, so there is an opportunity to prepare in those areas and to work out any differences between us that may still exist.

Thank you and good night.

MR. GIUFFRA: You have notice right now. Take notice that the Committee will seek to examine Ms. Sherburne about the areas that you refuse to answer questions about during the deposition today.

MR. WITTEN: Okay, thank you.

(Whereupon, at 8:20 p.m., Tuesday, February 6, 1996, the taking of the deposition ceased.)

JANE C. SHERBURNE

CERTIFICATE OF NOTARY PUBLIC & REPORTER 163

I, DAVID L. HOFFMAN, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the
District of Columbia

My Commission Expires JUNE 30, 2000

DEPOSITION OF DAVID EVAN KENDALL IN RE: S. RES. 120

WEDNESDAY, FEBRUARY 7, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of DAVID EVAN KENDALL, called for examination pursuant to notice of deposition, at 3:31 p.m. in the Hart Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., ESQ.
Majority Chief Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

MICHAEL S. SUNDERMEYER, ESQ.
Williams & Connolly
725 Twelfth Street, NW
Washington, DC 20005

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PROCEEDINGS

Whereupon,

DAVID EVAN KENDALL

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GIUFFRA:

Q Good afternoon, Mr. Kendall.

A Good afternoon, Mr. Giuffra.

Q To my left is Doug Nappi, who is counsel for the Banking Committee, and further down is Lance Cole, who is minority special counsel. I see you are represented by counsel.

Will counsel state his appearance?

A I'm here with my partner Michael Sundermeyer who is advising me on privilege matters.

MR. SUNDERMEYER: Sundermeyer is not representing the witness.

BY MR. GIUFFRA:

Q Excuse me. This is a deposition that's being conducted pursuant to Senate Resolution 120. This resolution establishes a special committee which

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is administered by the banking committee to conduct an investigation involving Whitewater Development Corporation and related matters.

Mr. Kendall, you're familiar with the resolution?

A I am.

Q You don't need me to run through the procedures with regard to the conduct of depositions, I will if you want me to.

A I don't think so.

I will ask, when will we have a chance to review the transcript?

MR. GIUFFRA: Off the record.

(Discussion off the record.)

MR. GIUFFRA: I don't have a problem with -- the court reporter can have it delivered to Mr. Kendall's office or Mr. Kendall can have arrangements to have it picked up with the court reporter this evening --

THE WITNESS: Good.

MR. GIUFFRA: -- that would be fine --

THE WITNESS: Thank you.

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MR. GIUFFRA: -- get it to Mr. Kendall at the same time you get it to the committee.

BY MR. GIUFFRA:

Q And you understand you'll be testifying tomorrow at the public hearing?

A I do.

MR. SUNDERMEYER: Do we know the time? There is some question as to whether the panels have been flipped.

MR. GIUFFRA: My understanding is that Mr. Kendall will be on the panel starting at 10:00 o'clock in the morning.

THE WITNESS: With Ms. Sherburne, is that correct?

BY MR. GIUFFRA:

Q That's my understanding, correct.

Mr. Kendall, will you please state your name for the record?

A David Evan Kendall.

Q And the spelling of your last name?

A K-E-N-D-A-L-L.

Q Mr. Kendall, I want to just ask you a

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couple very brief background questions.

When did you join Williams and Connolly?

A January 1978.

Q And you've been there the entire time?

A I have.

Q And your practice is -- just briefly describe the nature of your practice.

A General litigation.

Q And do you also do some criminal defense work?

A I do both the criminal and civil litigation.

Q In the course of your practice, have you previously had -- have you had experience with regard to taking of fingerprints on either documents or other forms of evidence?

A In my previous experience as a lawyer, to a limited extent, I dealt with fingerprint matters while I was a lawyer at the NAACP Legal Defense Fund.

Q Could you -- you graduated from law school in?

A 1971.

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Q And were you at the NAACP until you joined Williams and Connolly?
A From -- no, I clerked for a year for Mr. Justice White. I was in the Army for a period of time, and then from 1973 to 1978, I was at the NAACP Legal Defense Fund.
Q If you could just very briefly describe for the record your experience with regard to fingerprint issues while at the NAACP?
A I represented a number of defendants in murder cases and occasionally fingerprint evidence would be an issue.
Q Do you have any familiarity with the procedures that are used to obtain fingerprint evidence from documentary evidence?
A Let me confer.
(Witness confers with counsel.)
THE WITNESS: In a very limited way.
BY MR. GIUFFRA:
Q Could you just briefly state for the record your knowledge with regard to how fingerprint evidence is obtained from documentary evidence?

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A I'm not sure I know how it's obtained, but I know that it is easier to take fingerprints from documents than from metal or glass objects.
Q Do you know anything about the factors that might make it difficult to take fingerprint evidence from documentary evidence?
A My understanding is that fingerprints on solid surfaces are easily smeared, whereas on documents, if a fingerprint impression is received, it's more likely to be permanent and not smeared.
Q Is that understanding based on your own experience in cases or from attending seminars or just from work?
A It's based on my experiences in cases in dealing with fingerprint and other experts.
Q And would this experience be based on the time you were at the NAACP?
A Yes, it is.
Q Okay. Mr. Kendall, I'd like to show you a document which bears Bates number DKSN 028928 through 29043.
(Witness reviews the document.)

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THE WITNESS: Do you have a better copy, that's -- there's some pages here I can't tell the Bates number. There are three pages cut off, and I think they would be Bates numbers 28960, 61 and 62, because I pick up here with 63.

BY MR. GIUFFRA:

Q I think that's --

A The other one could be 64, and I have 65, 66. 67 is not clear. I have 68. I don't know if that's 69. I have 70, 71. I don't know if this page is 74. I don't find an 83. I don't know if that's 95.

And I'm reading the last pages of the Bates number. I don't know if that's 002. I don't know if that's 017. I don't know if this is 022. I don't know if that's 024. I don't know if that's 026. I can't tell if that's 035, and I don't know what number that final page is.

The pages I have before me appear to be a reduced noncolor Xerox copy of some of the billing records that I produced to this committee on January 5, 1996.

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Q All right. We will endeavor to get a complete set of those documents so the Bates numbers is more clearly read.

Now, the documents that you produced to the committee on January 5th, 1996, when did you first learn of the existence of those documents?

A About a little before 1:00 o'clock on -- 1:00 p.m. on January 4th, 1996.

Q And how did you learn of the existence of these documents?

A I stopped by the office of Mrs. Carolyn Huber in the east wing of the White House and she showed me documents which were I believe at least two generations away, photographs of what I have here in front of me this afternoon.

Q And Ms. Huber called you earlier in the day --

A No.

Q -- and advised you -- had someone else called you earlier in the day?

A I received -- I was in a meeting at the White House, and I received a message slip from an

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usher asking me to please stop by to see Ms. Huber before I left the White House.
Q And did the message slip indicate in any way what Mrs. Huber was to speak to you about?
A It did not.
Q When you arrived at Ms. Huber's east wing office a little before 1:00 p.m., what did Ms. Huber say to you?
A As I recall, she said, David, I have some documents for you, and she handed me a sheaf of documents.
Q Did Mrs. Huber say anything to you about the circumstances surrounding her discovery of these documents?
A She said that she had discovered them in a box of memorabilia which was in her east wing office when she had had a table moved out earlier that day.
Q Did she say anything to you about the circumstances under which she might have placed the documents in the box of memorabilia?
A I don't think she did on that occasion.
Q Did she say anything further to you about

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the circumstances surrounding her handling of these documents?
A She at one point toward the end of our 10-minute or so meeting said something like I felt I had to tell you, have I done the right thing.
Q Did Mrs. Huber indicate that she had advised anyone else of the existence of these documents?
A She did not.
Q Now, during this 10-minute meeting that you had with Mrs. Huber in her east wing office, you -- did you review the documents?
A Yes, I did.
Q And you realized what the documents were when you reviewed them?
A Well, I realized that these were Xerox copies of what appeared to be certain billing records of the Rose law firm for the Madison Guaranty account.
Q And you were aware that these documents were responsive to -- strike that.
You were aware these documents could be

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responsive to subpoenas and document requests served by investigatory agencies looking into Whitewater, Madison and related matters?

A Yes, I was.

Q Did you say anything of substance further to Ms. Huber?

A As we looked at the document, I asked her if she could identify any handwriting on the document, she said that she believed the red was Mr. Foster's handwriting.

She said that she had been a -- I think I known this, but I think she told me that she had been at the Rose law firm as office manager. She may have identified the handwriting of other people in the accounting department as well.

Q Do you recall Mrs. Huber identifying any other handwriting during this 10-minute meeting?

A I don't think so during this meeting.

Q Did Mrs. Huber say anything further to you about the billing records during the 10-minute meeting?

A Nothing that I can recall, other than what

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I've testified.

Q And did Mrs. Huber appear to be somewhat agitated?

A She did.

Q Can you say anything more about her demeanor?

A I had known Mrs. Huber for over two years. She appeared to me somewhat nervous, agitated and flustered.

Q At approximately what time would you have concluded with Ms. Huber, at approximately 1:00 o'clock or so?

A Yes, I did.

Q And did you give any instructions to Mrs. Huber at the conclusion of your meeting?

A I did.

Q What did you instruct Mrs. Huber to do?

A I responded to her that she had absolutely done the right thing; that I thought these documents would be helpful; that we would produce them; that she should call her own lawyer, Mr. Shulkey; that I would try and get in contact with White House

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counsel, we would have a meeting with her later, and in the meantime, she ought to safeguard the documents.

MR. COLE: Let's go off the record a minute.

MR. GIUFFRA: Yes, let's go off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q Was it your understanding that you were the first person Ms. Huber contacted with regard to the discovery of these billing records?

A That was my understanding.

Q After you -- did you leave -- you left Mrs. Huber's office?

A Yes, I did.

Q And she had kept the documents?

A She did.

Q And what steps did you take next?

A I telephoned her counsel, Mr. Shulkey.

Q From your office or from --

A No, I had some other things to do. I think

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I did not get him at first, I got him later in the afternoon, and I contacted Mr. Sherburne of the White House counsel's office.

Q Would you have contacted Ms. Sherburne approximately after the meeting concluded?

A No, I think I tried to get Mr. Shulkey first, I couldn't get him for a while. I may have called Ms. Sherburne, but I don't think I got her until around 4:00 o'clock maybe.

Q Okay. Now, when you -- you were at the White House on January 4, a little before 1:00 o'clock, with whom were you meeting at the White House?

A That's part of my work product, and I'm not going to respond.

Q Okay. Approximately what time were you able to contact Mr. Shulkey?

A I think I got him around -- between 3:00 o'clock and 3:30 sometime.

Q And what did you tell Mr. Shulkey?

A I told him that Carolyn Huber appeared to have discovered copies of some Rose law firm billing

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records that I thought he and I and Ms. Sherburne should meet to review the documents and decide how they should be produced.

Q And you scheduled a meeting for about 5:00 o'clock?

A I think the meeting was for 4:45, but we didn't get started really until 5:00 or 5:15.

Q It's a familiar pattern with regard to meetings.

When you contacted Ms. Sherburne, it was approximately 4:00 o'clock?

A I believe so.

Q And what do you recall about your conversation with Ms. Sherburne?

A I said that I had talked to Ms. Huber earlier in the day, I had been to her office, and she appeared to have discovered copies of Rose law firm billing records, that I contacted Mr. Shulkey, he was available to make a 4:45 meeting with Ms. Huber and I hope she would be able to make the meeting also.

Q Do you recall anything further about your conversation with Ms. Sherburne?

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A I do not.

Q Did you give any instruction or directions to Ms. Sherburne?

A I did not.

Q And did Ms. Sherburne give you any instruction or direction?

A Not that I recall.

Q You then attended the meeting at 5:15?

A Yes, I think Mr. Shulkey and I arrived at the White House at about the same time. We had to wait for a while and then were conducted up to Ms. Huber's office. I can't recall if Ms. Sherburne was already there or if she joined us on the way up.

Q Okay. Between 1:00 o'clock and when you arrived at the White House, between the time you left Mrs. Huber's office, did you return to your office or did you remain at the White House?

A I went to the National Gallery first of all, and then I returned to my office.

Q Okay. So whatever business you were involved with at the White House prior to a little bit before 1:00 was concluded at the time?

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A Yes, it was.
Q You went to see Ms. Huber?
A Indeed, I had received the note before the conclusion of the meeting I was at, I waited till the end of the meeting to go to see Mrs. Huber.
Q Do you recall approximately what time you might have received the note from Mrs. Huber?
A I think it was between 11:30 and noon.
Q All right. Between noon and 4:45 p.m., did you attempt to notify anyone with regard to the discovery of these billing records?
A I attempted to call my partner, Nicole Seligman.
Q Did you attempt to call anyone else?
A No.
Q You did not attempt to call the independent counsel?
A I did not.
Q Did you attempt to call Mrs. Clinton?
A I did not.
Q Do you have any understanding as -- strike that.

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Okay. When you arrived at 4:45 p.m., you and Mr. Shulkey went to Ms. Huber's office?
A Yes, ultimately we proceeded to her office.
Q Okay. What happened in Ms. Huber's office?
A Ms. Sherburne was there. Ms. Huber was there.
Q Ms. Sherburne was there before you both had arrived?
A I can't recall if she was there before or if she joined us on the way up. It's possible she may have conducted us up there. We examined the records in Ms. Huber's office.
Q When you say "examined the records," who was handling the records during this period?
A My recollection is that all four of the people there were. I think Ms. Huber produced the records, I think each one of us then looked at the records.
Q During the initial meeting you had with Ms. Huber a little bit before 1:00 p.m., you also handled the records as well as Ms. Huber?
A I did.

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Q Were you at all concerned during the initial meeting that perhaps fingerprint evidence might be lost because of the fact that you were handling the records?
A I was not.
Q That never entered into your --
A I think that's correct.
Q Was there any concern expressed at the let's just say the 5:15 meeting that fingerprint evidence might be lost if persons other than Ms. Huber handled the documents?
A Well, as I recall, we looked at the documents for a while in Ms. Huber's office, had a somewhat disjointed conversation with her about the circumstances of the discovery where the documents were, then we proceeded to an office down the hall that was slightly larger, and we determined that we ought to go systematically through the records to ascertain what they were, whether they were responsive, whether there were any privilege questions.
And Ms. Huber was seated at a desk, the

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three of us were around her looking down as she would explain what she knew about the various pages of the billing records. About midway through that process, Ms. Sherburne indicated that she would like to confer with Mr. Shulkey and me in the hall outside the office.
She -- we conferred in the hall, she raised the question of how we were going to copy and produce these records and also raised a question whether we should be handling them.
Q Okay. Let's just go back just briefly.
What do you recall about the conversation that you had at 5:15 or thereabouts with Mrs. Huber, Ms. Sherburne and Mr. Shulkey in which Ms. Huber recounted how she had discovered the documents?
A Her account was very vague. A problem I have is that Ms. Huber gave accounts at various times during that evening, and I have difficulty keeping the accounts straight in my mind.
But she basically indicated at the 5:15, the initial session, as I recall, that the documents had, in fact, been in her office for a period of

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time, a period of some months.
Q Did she indicate for approximately how many months?
A Well, I don't know. My recollection is at one point she said four months; at one point, five months, and at one point five to 10, various times as she tried to identify the point where the records came to her east wing office.
Q Did Ms. Huber say anything with regard to when she first came upon these documents?
A Again, she was quite vague. And at one point she seemed to say she had recognized them in the residence as Rose law firm billing records.
Q You're probably going to quickly.
Did she indicate she had found these documents in the residence and then had transported them to her east wing office?
A At some point she did.
Q You don't recall approximately when?
A I don't recall when.
Q What did Ms. Huber say about the -- about the circumstances under which she first came upon

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these documents in the residence?
A Well, she didn't say very much. She was, as I said, agitated. We determined that Mr. Shulkey at a later time should talk to her and try to get -- get the facts from her.
Q But did she indicate that she found these records initially in the residence of the White House?
A She did.
Q Did she indicate the room in which -- room in the residence in the White House in which she found these records?
A She at some point indicated that it was in the room which I knew as the junk room.
Q Why did you know this room as the junk room?
A That's what it was called when -- when I was really -- had some familiarity with it.
Q Had you been in the room previously?
A I had.
Q Approximately when had you been in the room?

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A I had been in the room in I remember March of 1994 and July -- June and July of '94. I may have been in there on other occasions, I just don't recall.
Q And what were the circumstances under which you were in the room in March of 1994?
A To review documents.
Q In connection with this case?
A In connection with my research in this case, yes.
Q And when you were in the book room in June and July of 1994, was it also to review documents in connection with your research in this case?
A It was really to -- it was part of the document production process, but we had -- we had a Xerox machine installed in the room, and, as I recall, it was just to visit the Xerox operator.
Q So there was a Xerox operator who was actually doing the copying for you?
A Yes, we brought over our own Xerox operator.
Q And that was sort of the equivalent of the

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Xerox room for your document production?
A It was.
Q Do you recall for approximately how many -- what length of time you were in the book room in March of '94?
A I really don't.
Q Did you attempt when you were in the book room -- strike that.
On any occasion, did you ever attempt to search for documents that might be responsive to either document requests or subpoenas served by investigatory agencies relating to the Whitewater, Madison matter?
A Well, in the time in March, I was in there, I reviewed two boxes of documents which Ms. Huber had directed me to, which just happened to be in there. I did not conduct a search in the junk room.
Q What were contained in the two boxes of documents that Mrs. Huber directed you to in March of 1994?
A These were two boxes of files from the Rose law firm.

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Q When you say -- what was contained in the two boxes of files from the Rose law firm?
A By and large, personal files of Mrs. Clinton.
Q When you say "personal files of Mrs. Clinton," can you be more specific with regard to the nature of the files that were contained in the two boxes?
A They were miscellaneous files, but of -- they would be on educational matters. They would be on current events or issues.
Q Was it your understanding that these boxes had been transported from the Rose law firm to the White House?
A It was.
Q And do you know when approximately these boxes were transported from the Rose law firm to the White House?
A Sometime in 1993.
Q Do you know who was the person at the Rose law firm in charge of -- strike that.
Do you know the person who at the Rose law

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firm, who shipped the two boxes from Arkansas to Washington?
A As I recall, it was Amy Stewart.
Q Do you know anything more -- anything about the circumstances under which Ms. Stewart shipped these two boxes of documents to the White House?
A I do not.
Q In reviewing the two boxes of documents, did you locate any documents that would have been responsive to the Senate's subpoena?
A I did.
Q And do you recall generally the documents that you found?
A I do.
Q What were those documents?
A It was a file called Whitewater estates, and it had in it some miscellaneous Whitewater-related materials, such as escrow receipts and documents like that.
Q Were there any documents relating to Madison Guaranty in the two boxes of documents?
A Not that I recall.

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Q Were there any documents relating to the Rose law firm -- strike that.

Were there any documents relating to any Rose law firm clients in the two boxes of documents?

A Not that I recall. Whitewater Development Company was for a short period of time I think a Rose law firm client, but apart from that, these were, as I can recall, personal and not clients files.

Q Okay. And there were not any -- you didn't see any Rose law firm billing records in the two boxes of documents?

A I did not.

Q And on the occasion -- on any of the occasions when you were in the so-called book room or junk room, you never saw any Rose law firm billing materials?

A I did not.

Q And you never saw the documents that you produced to the committee on January 5, 1996 in the book room on any of the occasions when you were there?

A I did not.

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Q But no one from your office ever did a document search in the book room, search for documents in the book room?

A I think our search was conducted in a different manner, but I think the answer to your question is, no, we did not search the book room.

Q Do you know whether Mrs. Huber ever attempted to search the book room for documents that might be responsive to the Senate's subpoena?

A Well, we relied upon Mrs. --

Q I just want to -- so the record is clear, obviously the Senate's subpoena would not have been served until October 30, 1995, and this would all have been going on earlier. But I'm just trying to focus on documents that would have been responsive to the Senate's subpoena.

A I can't say what precisely Mrs. Huber did, but we did rely upon her to identify records that could conceivably be responsive to the several document requests we responded to.

Q And do you have any understanding as to what steps Ms. Huber took in trying to locate

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documents that might be responsive to the several document requests that you were responding to that related to Whitewater, Madison?

A Well, not specifically, but she was familiar with all of the Clintons personal financial records and was able to provide them for us and provide other documents for our review that could conceivably be relevant to the various document requests.

Q Your recollection is you were in the book room in March of 1994 and June and July 1994 and perhaps on other occasions?

A And perhaps on other occasions.

Q Did the condition of the book room remain essentially the same on the various occasions you were there?

A It did. It resembled an attic. It was a very cluttered room. It appeared to be a storage place. There were bookshelves on the wall, but there were boxes, political memorabilia and other things stacked and piled around.

Q Do you recall whether -- about how large

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was the room?

A I'll have to give you an estimate, I would say perhaps 20 by 15 feet.

Q And when you say there were boxes stacked around the room, was it five boxes, 10 boxes? Can you give us an approximate number?

A There were many boxes, and I don't know how many.

Q And were they stacked rather high?

A The impression I have is of a jumble of boxes. I just can't be more specific than that.

Q And was there a table in the center of the book room?

A I don't remember. It's possible, but I don't remember.

Q Okay. And you recall books being in book cases around the room.

Do you have any understanding as to what persons would have had access to the book room just as a general matter?

A Well, I know that there was a laundry room behind it. There was a back corridor where -- which

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went out onto the roof of the White House, and there was an exercise room area on the left as you went in, but I don't specifically know who had access to the junk room.

Q Do you have any understanding as to who would have used the exercise room that was adjacent to the, we'll call it the book/junk room?

A Well, my impression is that -- that guests, Clintons themselves, perhaps some of the staff did.

Q But in order to enter the exercise room, you had to go through the book room?

A Yes.

Q Now, am I correct that Mrs. Clinton has an office on the third floor of the residence?

A Not any more. At one point the room adjacent to the junk room was used occasionally by Mrs. Clinton, I first knew that really as Ms. Huber's office. It is now used by Chelsea Clinton as a computer room.

Q When did the room cease being used by Mrs. Clinton or Mrs. Huber as an office?

A I don't know.

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Q As of August 1995, do you know to what use the room was being put?

A I don't.

Q But you do have an understanding on some occasion Mrs. Clinton used the office for various purposes?

A I think so, although as I say, I think it was primarily Mrs. Huber's office.

Q Okay.

A Mrs. Huber had an office in the east wing, this was Mrs. Huber's office in the residence basically.

Q Do you have any understanding with regard to the frequency with which Mrs. Huber would have used this office?

A In 1994, I think it was reasonably frequently.

Q Daily basis?

A I don't know.

MR. COLE: Could we clarify the sequence? Mr. Kendall's testified to three uses of the room that he has some knowledge of, as an office by

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Mrs. Huber, some use by Mrs. Clinton, and then by Chelsea Clinton for a computer room. And I'm not clear if he knows the sequence of those three uses of the room.

BY MR. GIUFFRA:

Q That's fine, if you could clarify that, that would be fine.

A About all I can say is that I first knew it as Mrs. Huber's office. I then had the impression that Mrs. Clinton occasionally used it and, recently, I have the impression that it is Chelsea's study and computer room.

MR. COLE: That's helpful. Thank you.

BY MR. GIUFFRA:

Q Did you ever -- you or any of your agents -- strike that.

Did you or any employees of Williams and Connolly search for documents in this office --

A Yes, we did.

Q -- that might be responsive? When would you have done that?

A That would have been in the June/July 1994

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period.

Q And were you able to identify any documents that would have been responsive to the various subpoenas and document requests related to the Whitewater matter?

A Yes, we were.

Q And just generally, what was the nature of the documents that you were able to locate in the office?

A These were largely personnel financial records of various kinds that were responsive to various document requests.

Q Were these personal financial records stored in a closet in that office?

A There were some boxes of records stored in the closet. There were also records elsewhere in the room, and Mrs. Huber brought in, as I recall, some other boxes.

Q Do you know from where Mrs. Huber brought these other boxes?

A I do not.

Q Were there also file cabinets in the

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office?
A My recollection is that there was at least one file cabinet, and there were also I believe some built-in file drawers under the window.
Q Did you locate any documents -- strike that.
Did you locate any documents relating to the Rose law firm's representation of Madison Guaranty during your search of the documents in the office in June/July 1994?
A Not to my recollection. I mean we identified documents relating to, for example, President and Mrs. Clinton's tax returns, that would have reflected income from the Rose law firm, which conceivably in some years might have been derived indirectly from the Madison Guaranty representation, but no documents which, to my recollection, which related specifically to that representation.
Q And did you locate any Rose law firm billing materials during your review of documents in the office on the third floor of the residence in June/July 1994?

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A Not that I recall.
Q So we don't have to go back through this.
When you say that Mrs. Huber brought the documents forward, did anyone, either yourself or someone else from your office, actually go and look through the file cabinets and look about the room to see whether there might be responsive documents, or were you relying on Mrs. Huber?
A No, in terms of the office, we really reviewed every scrap of paper in there, that was the principal locus of records and files in that period. So we reviewed every piece of paper in the office, including file drawers, file cabinets. And Mrs. Huber brought -- and I don't know whether she or somebody at her behest brought certain other boxes that Mrs. Huber deemed might be responsive.
Q Do you have any understanding as to where those other boxes might be stored at the White House complex?
A I do not.
Q Did Mrs. Huber indicate to you in any way where they might have been stored?

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A I can't recall.
Q But it was your understanding that the Clintons personal papers for the most part would have been stored in this office?
A Yes. Also, Mrs. Huber kept the Clintons personal records and papers and had for many, many years. She was really more experienced -- she was the most experienced person as to what documents were where.
Q Do you have any understanding of the process by which those documents were shipped from Arkansas to Washington?
A Not in any -- not in any technical way. I know that Mrs. Huber was in charge of the move, but I know nothing more than that.
Q Do you know anything about any shipment -- you've identified the one shipment of documents that Ms. Stewart was involved in.
Are you aware of any other shipments of documents from the Rose law firm to the White House residence -- strike that, let me repeat.
You've testified about Ms. Stewart's

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shipping two boxes of documents. Are you aware of any other shipments of boxes from the Rose law firm to the White House?
A As I sit here now, I don't recall. It's possible that some other educational files were shipped, I just -- I don't recall.
Q Okay. Just turning back to the -- what you call the junk room and Ms. Huber calls the book room, were there also a number of file cabinets in the room?
A I don't remember.
Q Do you recall seeing any vacation maps or just maps generally?
A There might have been some large political maps or other political memorabilia.
Q What was your understanding -- strike that.
What was your understanding of the use to which this room was put as of August 1995?
A I don't think I had an understanding.
Q Okay. Okay. So when you were there in March '94, June/July '94, you had no understanding as to what the room was put to other than what you

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perceived when you walked in?
A It was an attic or fibramebees closet.
Q And you had no understanding what Ms. Huber's role was with regard to this room?
A Not specifically, no.
Q And as to whether she, for example, as she testified would go to the room every three days and remove certain things and bring them down to her office?
A I simply had no understanding.
Q Okay. Let's go back to January 4.
MR. COLE: Before we go back to January 4, can I ask a follow-up question?
MR. GIUFFRA: Sure, Lance, and at any point if you want to speed up the process.
MR. COLE: Maybe it will be more efficient so that Mr. Kendall doesn't have to recall later.
The two boxes that you testified to, Mr. Kendall, that you reviewed and what you described as the junk room, did that review occur at about or the same time as the review of documents that you testified to that took place in the office adjoining

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that room or is that at a different time?
THE WITNESS: I reviewed those two boxes twice. I reviewed the boxes once in March of 1994 in the junk room, and I reviewed the two boxes again in either June or July of '94 in the office.
Ms. Huber had them moved in for our review in the office, so I reviewed them in two different places at two different times.
MR. COLE: I understand.
BY MR. GIUFFRA:
Q Approximately how big were these boxes?
A Let me think. They were perhaps 3 feet worth of files, they were maybe, I don't know, a foot and a half wide and a foot high.
Q In terms of your review of documents in March of 1994, who else would have participated in that review?
A I did it alone.
Q And in the June/July review, was that also --
A My partner, Nicole Seligman, Silvija Strikis, Julie Ferguson, two paralegals, Mark Roth

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and Denise Sidlar. I don't know that all of those were at the White House, but we were reviewing documents in a number of different places then.

Q Okay. In terms of the search in March of '94, though, when you said you looked at every scrap of paper in the office --

A No, that was in June, July '94.

Q So in June or July of 1994, you would have looked at every scrap of paper?

A That's correct.

Q That was not done only by you?

A No, in fact, it was done very little by me. By recollection is that Nicole Seligman and Silvija Strikis did most of that work. I did a little bit of it.

Q In the March '94 period, you reviewed which documents then?

A I reviewed the two boxes from the Rose law firm.

Q Just the two boxes. Did anyone else assist either you or your colleagues besides Mrs. Huber in either -- in reviewing these documents?

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A Ms. Milli Austin also, it turned out, had some responsive documents, so she assisted us in identifying some documents.

Q Who is Milli Austin?

A Ms. Austin had been Mrs. Clinton's secretary at the Rose law firm. She now works in the east wing of the White House, and she had a few documents that were responsive to some of the document requests.

Q What were the nature of the documents that Ms. Austin had possession of?

A I can't remember all of them. There were some -- there was I think some correspondence and perhaps an index.

Q What was the nature of the correspondence that Ms. Austin had possession?

A I can't remember.

Q Did the correspondence relate to the Rose law firm or Madison Guaranty?

A I think it did -- it didn't relate to Madison Guaranty, to my recollection, but I think it did relate to the Rose law firm.

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Q You have no other recollection as to how it might have related to the Rose law firm?
A Well, I think that the Amy Stewart letter was to Milli Austin that I described transmitting the documents, and there may have been other correspondence back and forth between Ms. Stewart and Ms. Austin.
Q And you mentioned an index, what was the index of?
A The index, as I recall, was a storage list of files that Mrs. Clinton had at the Rose law firm.
Q So Mrs. Clinton as of --
A There may have been other documents, I just don't recall.
Q This storage list -- does Mrs. Clinton -- strike that.
In 1994 did Mrs. Clinton store documents at the Rose law firm?
A She did.
Q And, generally, what would be the nature of the documents that would have been stored at the Rose law firm?

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A Very generally. They were her personal documents which she had not transported up to Washington. They would have been the miscellaneous files of her educational activities and things like that.
Q And those documents were stored at the Rose law firm storage facility?
A Some of them were at the remote storage facility, others of them were maintained at the firm. I think that arrangement may have changed over time.
Q Have you or anyone or has anyone at your direction ever searched for documents that might be responsive to the various subpoenas and requests relating to Whitewater, Madison -- strike that.
Has anyone -- have you or anyone at your direction ever searched for documents -- searched the documents that -- Mrs. Clinton documents that were stored at the Rose law firm for documents that might have been responsive to the various subpoenas?
A Yes.
Q And are those documents now in your

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possession, all the documents?
A No, not all the documents, but the responsive documents, copies of them are in my possession.
Q When would you have searched for -- strike that.
When would you have searched for -- strike that, I'm sorry.
Do you recall approximately when you searched the documents that Mrs. Clinton had stored at the Rose law firm?
A I can recall at least three occasions, and there may have been more; one was in March of 1994, one was in July of 1994. It was a two-day period, a Friday and a Saturday, one was in either February or March of 1995.
Q Do you recall generally the nature of the documents that you found at the Rose law firm that were responsive to the various subpoenas?
A It would have depended on the requests. There were responsive documents insofar as they were responsive to the Senate's request, we had produced

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them to you.
Q Okay. You don't recall anything more specifically about the nature of the documents that would have been responsive?
A Well, to the Senate's request, I can recall one 1987 document that appeared to have been misfiled, it was, in fact, a Madison Guaranty billing record, it was a record of telephone calls that were charged to the Madison Guaranty number in 1987, and that was an error.
As we all know, people often when there are code numbers make mistakes in coding things, so these telephone calls had popped up, and there was a search -- there was an effort made within the law firm to identify the client to whom those calls should be charged.
Q And the calls back in '87 were charged to Madison which was --
A They were erroneously to Madison. They apparently -- I think they were -- I think there were several pages devoted to this effort, and I believe the correct clients were finally identified.

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Q And that document was not produced to us, I don't believe.
A It was indeed.
Q It was indeed.
A Um-hum.
Q Do you recall any other documents that might have been responsive to the Senate's subpoena?
A Well, I'm sure there were, Mr. Giuffra. I can't as I sit here -- we produced tens of thousands of documents --
Q I understand.
A -- I know there were, but I just can't recall which ones they are.
Q In reviewing the documents of the Rose law firm, did you review the personal files or did someone else?
A I did.
Q And did you identify any Madison Guaranty billing records other than this telephone record that you just mentioned?
A Not that I can recall.
Q Okay, let's go back to, sorry for the

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detour, January 4, '96.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q Returning to January 4, '96, during any of the conversations that you had with Ms. Huber, did anyone take any notes as best you can recall?
A Not that I can recall.
Q Was there any discussion at any time on January 4, 1996 of the need to notify the independent counsel of the discovery of these records?
A As I recall it, we discussed both in the hallway conversation, and then later after we had completed the review of the documents the need to notify not only the independent counsel, but the Senate, the House, the RTC.
Q And it's your recollection they were all sort of talked about together?
A Well, as I recall, we discussed it on two different occasions. We felt a need to have the documents copied and color copied, because some of the notes were in color, that proved to be a

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difficult and ultimately time-consuming process.
Q Just so the record is clear, do you recall anything more -- strike that.
Now, the review process, that occurred in the same room where you were with Ms. Huber?
A No, we initially reviewed the documents in her office and then because that was somewhat cramped --
Q Then you moved down the hall?
A Then we moved down the hall.
Q And then you reviewed the documents with Ms. Huber?
A That's correct, page by page.
Q Do you recall anything that Mrs. Huber said as you reviewed the documents page by page?
A She answered questions, identified handwriting in many cases, was some help in explaining what the various entries meant. She was familiar with -- generally familiar with the Rose law firm's bookkeeping system and would answer questions about that system.
Q Do you recall anything more of the

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discussion during the course of this review process?
A Well, as I say, she identified various people's handwriting.
Q Did she identify Mrs. Clinton's handwriting?
A She did. This was a Xeroxed -- I mean we were looking at a Xerox copy of the records on which some handwriting appears to be made in original ink. Mr. Foster's handwriting she identified, but Mrs. Clinton's handwriting appeared to be Xeroxed.
Q Approximately how long did the review process take?
A Thirty to 45 minutes.
Q And Mrs. Huber would have been present during the entire process?
A Yes.
Q Now, then there was a decision made that you needed to copy the documents --
A Yes.
Q -- before they would be produced to the various --
A Yes, there was a discussion at the end of

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the review. As I recall, we went back into Mrs. Huber's office, both Ms. Huber and Ms. Sherburne tried to locate a color copying machine. Mr. Shulkey and I used the telephones in the outer office, and it took a while to figure out where the color copier was located.

We did have a discussion at some time during that period, Mr. Shulkey, Ms. Sherburne and I, as to who the two -- three of us that would produce the various documents to the various agencies.

Q And the decision was made that you would produce the documents?

A That's correct.

Q And what was the justification for that decision?

A I think that it was most appropriate for me, although it would have been appropriate for either Mr. Shulkey Ms. Sherburne to do it. It was most appropriate for me, because these were the kinds of documents that I would have been producing historically.

Q And that would be because these were

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documents that related to matters that predated President Clinton's inauguration?

A That's correct.

Q Now, what do you recall about the discussion with regard to the actual decision whether to copy the documents or just turn them over?

A We were -- I don't recall very much about the specifics of the discussion, but we were all in agreement that the documents should be copied and made available to all of the investigative agencies.

Q And what do you recall, if anything, about any conversation in which there was concern about expressed -- strike that.

During any of the conversation that might have occurred amongst the three of you on the 4th, was there any discussion about the possibility that fingerprint evidence might be lost because of the copying process?

A I don't remember the specifics, but I do remember Ms. Sherburne's comment about whether we should be handling the documents; we discussed that question.

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Q What do you recall about that discussion?
A I recall simply that she raised the point and we concluded that what we ought to do is make copies of the document and work -- make further copies from a copy, from a color copy, and that we ought to produce the documents as speedily as we could.
Q And you don't recall any further concern being expressed about the possible loss of fingerprint evidence from the copying process or various people handling?
A I don't.
Q Did you at that time think back to your own experience with regard to fingerprint evidence?
A I did not regard this as a forensic problem.
Q Okay. All right. During the period when Ms. Sherburne and Ms. Huber were attempting to locate a copy machine, you testified that you made some phone calls.
A Yes.
Q Do you recall who you might have called?

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A I know that I was returning phone calls. I don't have a specific recollection of who they might have been. I talked to Ms. Seligman, I did hookup with her at that point. I don't recall who the other calls were to.
Q As best you recall, was Mrs. Clinton present in the White House on the 4th of January?
A She was at least in the morning.
Q Other than the call with Ms. Seligman, you can't recall any of the other calls?
A There were -- I returned at least five, six, seven phone calls. I think some of them may have been press calls which were very brief.
Q Okay. Then the four of you went to the new executive office building?
A That's correct.
Q Which there was a copy machine there that was located?
A It was a little more difficult than that. Mr. Shulkey and I were not government employees, therefore, we had to be cleared in. And, as I recall, there was a glitch of some kind when we got

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there, Ms. Sherburne and Ms. Huber were able to zip right through, whereas Mr. Shulkey and I had to wait at least 15 minutes for our clearance to come through the computer.

Q Then there was a copying process that occurred?

A That's correct.

Q Approximately how long did that take?

A I think it took from two to three hours, more like three hours. The logs of the entry and exit at the new executive office building ought to show precisely when Ms. Huber and Ms. Sherburne went in and when they left. But my recollection is it was between more like three hours than two hours.

Q So when do you think you might have left the new executive building?

A I think I probably left around 10:00 or a little thereafter.

Q You left with the originals then?

A I did. I left with one copy and one original. Well, I had left earlier in the evening. Mr. Shulkey and I had gone back to Ms. Huber's office

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and taken photographs and then we returned to the NEOB.

Q And these would be the photographs that you produced to the committee I believe it was yesterday?

A That's correct.

Q And what was the reason for taking the photographs?

A Simply to record the box that the documents were found in and the office of Ms. Huber.

Q On January 4, 1996, did anyone, to your knowledge, attempt to alert the independent counsel of the discovery of these billing records?

A No, we did that first thing on the next morning.

Q Okay. And were you the person who contacted the independent counsel?

A I was, although, Ms. Sherburne was on the conversation with me.

Q And you contacted Mr. Bates?

A That's correct.

Q It would be approximately 9:00, 10:00 o'clock in the morning?

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A Between 9:00 and 10:00.
Q And you advised them of the discovery of the records?
A That's correct.
Q Was there any discussion on the 4th of the need to contact the independent counsel before the copying process occurred?
A Not that I recall.
Q Was -- during the copying process, were the documents being handled by Ms. Sherburne and Ms. Huber?
A That's correct.
Q Now, did you speak to Mrs. Clinton at all on the following -- following the time when you were informed -- strike that.
Just on January 4, after you were advised by Ms. Huber of the discovery of the billing records, did you speak to Mrs. Clinton?
A I did not.
Q I want to be careful how I phrase these questions.
Do you have any understanding as to who

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Ms. Sherburne may have contacted to inform them of the discovery of the billing records on -- strike that.
On January 4th, 1996, do you have any understanding who Mrs. Sherburne might have contacted to advise of the discovery of these billing records?
A I do not.
Q Did you direct anyone -- strike that.
Did you direct Ms. Seligman to advise anyone of the discovery of these billing records on January 4th?
A I did not.
Q Do you recall anything more about what Mrs. -- other than what you testified to about what Mrs. Huber might have said on the 4th, with regard to the discovery of these records?
A I think I've already indicated that she gave slightly different accounts of her reaction when she first saw the documents. At one point, I thought I understood her to say she saw the documents and they looked like Rose law firm billing records.
Q Meaning that when she saw them initially?

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A Initially. But at another point, I thought I understood her to say that it looked like just a sheaf of papers and she had no comprehension really of what they were.
Q Do you recall anything else Mrs. Huber might have said of substance with regards to the circumstances surrounding the discovery of the billing records?
A No. She was, as I've said, very vague and, again, we had really decided not to press her, to let Mr. Shulkey, her own lawyer, talk to her about the circumstances of the discovery.
Q Now, when you had an opportunity to review these billing records on January 4th, did you deem them to be responsive to the Senate's subpoena?
A I did not.
Q You did not deem them to be responsive?
A I did not.
Q Why did you not deem them to be responsive to the Senate's subpoena?
A The Senate subpoena calls for -- and I don't have it before me, if you could show it to me,

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I'll tell you.
MR. GIUFFRA: Let's just go off the record for a second.
(Discussion off the record.)
BY MR. GIUFFRA:
Q Mr. Kendall, I've just handed you a copy of the August 25th letter which Chairman D'Amato sent I believe to you.
A Yes, I recognize this.
Q And the subpoena basically just called for all documents that were set forth in the letter.
A That's my recollection.
Q Okay. And why do you believe that the subpoena did not call for the production of these Rose billing records?
A Because it sought Madison records which were concerning the operations solvency and regulation of Madison. And I did not think the billing records were technically comprehended within that formulation.
That said we had in the past produced the one billing record I identified, and there was no

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doubt in my mind that the records, whether called for or not by the subpoena, were of interest to the Senate and, therefore, we resolved to produce them as speedily as we could to the Senate.

Q Just so the record is clear. Why would you not consider these billing records to be responsive to the request seeking documents that reflect, refer or relate to any RTC investigation relating to Madison on Whitewater?

A Because I didn't think they fit that category.

Q And they would not be responsive -- they would not be -- they would not reflect, refer or relate to the operations of Madison or its regulations notwithstanding the fact that they identified various legal services provided by Rose in connection with certain transactions including -- describing certain communications that Rose had with various state regulators?

A I did not think the documents were technically captured by the phrase regulation, operation and solvency or whatever the --

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Q Operations or solvency.

A The August 25 letter formulation is, but as I've indicated, we were not trying to draw narrow technical lines. We previously produced the billing records we had found and we were aware, as I've said, that these were of interest to the Senate, so we promptly produced them.

Q In responding to this letter of October 30, 1995, would you have been construing the subpoena in a broad manner or very hypertechnical matter?

A Well, I think we tried to be cooperative and we tried to produce documents, again, that we thought were called for by the subpoena, but we certainly were not trying to be hypertechnical.

Q Okay. Do you recall receiving a letter -- actually I think it was from me -- dated September 25, 1995.

A I do.

Q Do you recall the fact that that letter specifically asked for documents that reflect, refer, or relate to Rose's representation of Madison?

A It's not my recollection of the letter, if

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I could look at it.
(Witness reviews the document.)
THE WITNESS: This letter relates back to the Chairman's August 25th letter, if I could just see that for a second.
(Witness reviews the document.)
THE WITNESS: Thank you.
Yes. Now, I'm sorry what was your question?
BY MR. GIUFFRA:
Q Would you have not -- strike that.
The September 25th letter specifically identified records relating to Rose's representation of Madison. And I think you would agree that the billing records would have been encompassed within that particular --
A No, I would not agree.
Q Okay. Why would you not agree?
A Because your September 25th letter relates to subpart H of the August 25 letter, and that subpart H relates to the policies and practices of the RTC and the federal banking agencies, as that

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term is defined in section 3 of the Federal Deposit Insurance Act regarding the legal representation of such agencies with respect to Madison.
So your September 25 letter when it mentions the Rose law firm's representation of Madison has to do with such things as the representation of the government agencies in the Frost or other litigation.
Q Now, you were aware in September of 1995 of the fact that the RTC and the FDIC were investigating possible conflicts of interest that the Rose law firm might have had with regard to its representation of the RTC in the Frost litigation?
A Well, I'm not going to speak to my -- I think that my awareness of issues does get into my mental impressions and work product. I can tell you what I did with regard to subpoena compliance.
Q Okay. And I ask this question -- this next question just to -- maybe we need to serve another subpoena.
Are you aware of any documents that would reflect, refer or relate to the Rose law firm's

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representation of Madison that would be in the possession, custody or control of the President or Mrs. Clinton that have not been produced to the committee?

A I'm not aware.

Q That answers that question.

Now, the billing records, were they also responsive -- would they have been responsive to subpoenas or document requests served by other investigatory agencies?

A They would.

Q And which investigatory -- strike that.

Could you just state for the record what investigatory agencies they would -- subpoenas or requests by investigative agencies that they would have been responsible for?

A The independent counsel, the FDIC, and the RTC. Now, the RTC had gone out of business technically, as I understand, on December 31, but there were some functions still being discharged and those are being handled by the RTC.

But if these had been discovered at a time

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when the RTC was still a live agency, the records would have been responsive also to RTC document requests.

Q So it would have been responsive to all three of those investigatory agencies?

A Yes.

Q When would the first subpoena or document request to which these records would have been responsive, when was that first served on the President and Mrs. Clinton?

A Well, if I had -- the first request would have been to me in my capacity as a lawyer, and that would have been December 24, 1993; if I had had them then, they would have been responsive.

Q That would have been a subpoena served by Mr. McKay of the Department of Justice?

A That's correct. And, again, I'm not going to get into the details of the independent counsel's investigation, but that, again, if I had had the documents back in December of 1993, they would have been responsive.

Q Yeah. I think I just wanted to get the

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initial date. I have no interest in getting into all the various subpoenas you might have received, but I think to get the initial date, I think it's a fair point.

A I agree.

Q Just to be clear on the -- one other point. When you say that you wouldn't have any documents -- the President and Mrs. Clinton would not have any documents in their possession, custody or control that reflect, refer or relate to the Rose firm's representation of Madison that haven't been turned over --

A To my knowledge.

Q -- to the Senate, that's because you're construing, although you don't think technically within the call by our subpoena, you're construing the subpoena in such a way that it would encompass those documents?

A I'm not trying to be hypertechnical, because some of the agency demands are broader. I'm aware of no such documents.

Q Okay. But my point -- my question, though,

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goes to, in construing the Senate's subpoena, you construed it to encompass these documents or at least you thought --

A No, I didn't -- I said that we produced them voluntarily. We have tried from the beginning to be cooperative, and we have not tried to draw hypertechnical lines, although we've been guided by what you've asked for.

And as I indicated before, we produced the billing records that I found in -- at the Rose law firm, you know, in one of our productions in the fall of 1995.

Q Let me just ask several more questions about this October 30 subpoena again. These are just in the realm of whether we need to serve another subpoena.

There's a request which calls for documents that reflect, refer or relate to bond underwriting contracts between ADFA and Lasate Company.

Do you recall that request?

A Yes.

Q Would you have produced to the company

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documents that reflect, refer or relate something that's referred to a police radio network contact to the bond offer?

A I can't -- as I sit here, that is -- I believe we produced a lot of documents referring to that. In each of these categories, we've tried to fairly respond to the categories, and again we're dealing with tens of thousands of documents. We've produced more documents as they've come to our attention, and we'll continue to do so.

MR. GIUFFRA: Let's go off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q This was another letter sent to you dated October 6th, 1995 from Chairman D'Amato and Senator Sarbanes. I will direct your attention to the second page, it asks for documents that reflect, refer or relate to or have any tendency to reveal the full facts about any of the following subjects, and subparagraph A2 specifies any communication, contact or meeting involving any real estate development corporation, joint venture or other business entity

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in which Madison financial corporation, and then it goes on to say, or any subsidiary, affiliate or other entity owned or controlled by Madison or James McDougal had an investment or ownership interest including but not limited to, and the subparagraph, the real estate project.

Do you think these billing records would have been included in that?

A Can I see -- I don't know if this is the letter to me or to Mr. Tisdale or both.

Q It's to both.

A Okay.

(Witness reviews the document.)

THE WITNESS: This was a letter to Mr. Tisdale and me in what you believed to be our capacity as document custodians for the gubernatorial papers of William Jefferson Clinton and for the 1990 William Jefferson Clinton gubernatorial campaign.

In the letter you indicated, and I quote, David Kendall has advised Robert Guiffra, chief counsel of the banking committee, that you or both, the letter is addressed to me and to Mr. Tisdale, the

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document custodians for the gubernatorial papers of William Jefferson Clinton and for the 1990 Clinton gubernatorial campaign.

I think you and I had a miscommunication, because I had intended to tell you, and I do clarify this in a later letter in October that Mr. Tisdale and not me was the document custodian for both the Clinton gubernatorial papers and the 1990 campaign.

I think my letter is dated October 22nd or so. It was either with our second or third production. Our first production was I think September 22. My letter would have been after October 6th, but I think before the subpoenas.

Q Okay. So the document custodian, just so it's on the record, for the gubernatorial papers is Mr. Tisdale?

A That's correct, and the 1990 campaign, so that request --

Q And the '92 campaign?

A And the '92 campaign.

Q So you would just be the person to send requests to or subpoenas to in connection with the

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personal papers of the Clintons?

A That's correct.

Q Okay. Just to try to speed up the process. Do you recall any of your conversations of substance you might have had with either Ms. Huber, Ms. Sherburne or Mr. Shulkey on the 4th that we haven't identified here today?

A I think we've at least touched on everything.

Q Now, on December 5th, you notified the independent counsel in the morning --

A January 5th.

Q -- excuse me, January 5th, I apologize. Did you notify Mrs. Clinton of the discovery of the records?

A Well, I'm not going to talk about my communications with Mrs. Clinton. Mrs. Clinton and I did have a conversation by telephone that morning and then I saw her later in the morning of January 5th.

Q Okay. Did you have a communication with President Clinton on the 5th?

A I did not.

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Q Did you have a communication with any other member of the White House staff other than Ms. Sherburne on 9th?
A I did.
Q And who were those communications with?
A Jack Quinn.
Q Anyone else?
A Yes. Mark Fabriani, David Fine, and it's possible there were some other people. This was late in the afternoon of the 5th as we were trying to craft a statement, and I simply don't recall who was on the other end of the line.
Q This would have been a telephone call?
A It would have been a telephone call.
Q And was Mr. Quinn also a telephone call?
A Yes, it was.
MR. GIUFFRA: Let's just go off the record.
(Discussion off the record.)
MR. GIUFFRA: We just had a conference off the record, and Mr. Kendall is going to state his position with regard to what questions he will and

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won't answer with regard to communications with White House staff or counsel, excuse me.
THE WITNESS: We've agreed to provide testimony concerning the discovery of the billing records. I think the logical definition of that is from the time I first saw them until the time they were produced to the Senate. I think events thereafter are not really reflective of the discovery of the billing records.
BY MR. GIUFFRA:
Q Just so we're clear, we've agreed -- is it that the President and Mrs. Clinton have instructed you not to assert any privileges or --
A Well, that's my understanding of the ground rules that we have talked about up until this point.
Q Just so the record is clear, and I don't want to get in a big thing about this.
I think it's important that, you know, there are no firm agreements or agreements of any nature that the Senate has entered into with regard to what it will investigate here.
What we've attempted to do is to be mindful

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of, you know, various privileges that might be asserted by various parties and have attempted in a meeting that was held two days ago to ascertain what everyone's respective positions were with regard to the assertion of any privilege.

Okay. What do you recall about the communication you had with Mr. Quinn?

A It was very brief. I simply indicated to him that we had discovered what appeared to be copies of the Rose law firm billing records for the Madison Guaranty account and that we were producing them that day, the originals to the independent counsel, copies to the Senate, the House, the RTC and the FDIC.

Q Did you speak to anyone else at the White House on the 4th or 5th other than the people you've identified?

A No, not other than the people -- I can't recall other than the people I've identified.

Q Margaret Williams?

A No.

Q Okay. In June of 1994, did you attend a meeting with Ms. Sherburne and Mrs. Clinton at which

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there was discussion -- strike that.

Actually at which there was discussion -- strike that, the whole thing.

Did you attend a meeting in June of 1994 with Ms. Sherburne, Mrs. Clinton at which there was discussion of Rose law firm billing records including a billing recap, fee billing recap?

A No.

Q Do you ever recall attending a meeting with Ms. Sherburne in which Rose law firm billing records were discussed?

A Again, I'm going to respectfully decline to answer that, that gets into my investigation of the case, and it would compel me to produce mental impressions which is protected work product --

Q Okay.

A -- which are protected work product.

Q Have you had any discussions -- prior to January 4th, 1996, did you have any discussions with Ms. Huber about Rose law firm billing records?

A Again, the same -- if I can just have the same objection.

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Q Okay. So just -- okay. Mr. Hubbell?
A The same objection.
Q Okay. So it would be the same objection to any --
A It would be the same objection, insofar as what I do to investigate what I consider to be relevant issues in representing a client, any client, that is my protected work product.
Q Okay. Would that include any communications you might have had with Ms. Huber trying to locate Rose billing records?
A We have -- I think if that question is phrased in terms of subpoena compliance, I would not object to it.
Q Okay. Let me see if I can phrase all these questions in terms of -- what I'll do is I'll set forth the question in broad, and then I'll just read off some names.
A I want to get the question.
Q Okay. In attempting to respond to subpoenas or document requests calling for documents bearing on Whitewater, Madison-related matters --

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strike that.
All right. In responding to subpoenas or requests of investigatory agencies calling for Rose law firm records, have you spoken to Ms. Huber?
A Yes.
Q Okay. Do you recall when you might have spoken to Ms. Huber?
A This would have been in June of 1994.
Q And do you recall what Mrs. Huber might have said to you about the possible existence of Rose law firm records?
A Again, I think it was probably earlier also, probably in March or May as well, I indicated to her what I was looking for and she responded to my request.
Q And among the types of documents you would have been looking for would have been Rose law firm records?
A Well, not necessarily, it would have been records having to do with Madison Guaranty and some other kinds of records. Again, I don't want to pin it down, but Ms. Huber would have given me guidance

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as to what documents, if any, she had, or if he she would have provided me with her other knowledge of the Rose law firm, Ms. Austin and perhaps others.

Q You don't recall anything further about the substance of those communications?

A No.

Q In responding to subpoenas or requests of investigatory agencies calling for Rose law firm records, have you spoken to Mr. Hubbell?

A No.

Q Now, there came a time when Mr. Hubbell provided you with certain -- did there ever come a time when Mr. Hubbell provided you with any Rose law firm records?

A Again, I'm going to keep this focused on what I've already testified to, because it did arise last year as, you know, yes, there came a time when Mr. Hubbell provided me with a number of documents, among which were three files which I identified as original Rose law firm records of the Madison Guaranty representation.

Q Just so the record is clear. I believe,

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Mr. Kendall, you spoke at the hearing but were not under oath with regard to --

A I did speak at the hearing. I was not formally sworn, my testimony would not vary.

Q Okay. In responding to subpoenas or requests of investigatory agencies calling for Rose law firm records, have you spoken to Betsy Wright and by you, I mean you or anyone at Williams and Connolly?

A Well, I can't speak for everyone at Williams and Connolly. Certainly we would have spoken to Ms. Wright and her counsel in terms of complying generally with subpoenas, but I have no recollection of anything specific about Madison Guaranty.

Q In responding to the subpoenas or requests of investigatory agencies calling for Rose law firm records, would you have spoken to Susan Thomases?

A I don't think so -- well, excuse me. It's possible that because she had worked some on Whitewater during the campaign, I might have asked her the location of whereabouts of documents. I

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think I probably did, in fact.
Q Do you recall anything that Ms. Thomases might have told you about the location, whereabouts of documents?
A I think she said I should check with Jim Lyons.
Q In responding to subpoenas or requests of investigatory agencies calling for Rose law firm records, have you spoken to Mr. Lyons?
A Not for Rose law firm records.
Q Okay. Those would have just been Whitewater records?
A Yes.
Q And with Ms. Thomases, you think you might have mentioned to her the Rose law firm or the Madison --
A I may have misunderstood. I thought your question to Ms. Thomases was any records, and I thought I said Whitewater records.
Q Okay. In responding to subpoenas or requests of investigatory agencies calling for Rose law firm records, would you have spoken to Mr. Ron

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Clark?
A Yes.
Q Do you recall anything about any communications you had with Mr. Clark?
A It was really to get whatever guidance he could give me as to the personal files that were stored at the Rose law firm.
Q Do you know a man named Austin Jennings?
A I do. Austin Jennings, Senior or Junior?
Q Senior.
A I do.
Q Have you had any communications with Mr. Jennings regarding Rose's representation of Madison?
A I have.
Q And you would assert work product privilege?
A I would assert work product privilege. As to the substance, as to the, you know, the surrounding circumstances which would allow you to establish that the claim was well taken, I would not.

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Q Okay. Why don't you just state for the record what the circumstances surrounding your communications with Mr. Jennings were with regard to Rose's representation of Madison?
A I didn't really have questions from Mr. Jennings, it was from Mr. Seth Ward. It occurred in January of this year, in Little Rock.
Q Do you recall -- would this have been before or after the discovery of the Rose billing records?
A It would have been after, about a week after.
Q Have you had any communications with Mr. Rick Massey about Rose's representation of Madison?
A No.
Q Have you had any communications with Mr. Webster Hubbell about Rose's representation of Madison?
A Yes.
Q Again, in terms of timing?
A November of 1993.

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Q And as to the substance, again work product?
A It would be work product.
Q Have you had any communications with Susan Thomases about Rose's representation of Madison?
A I don't believe so.
Q Do you know a man named Richard Donovan, he's a lawyer at the Rose firm?
A No -- I know the name Richard Donovan, but I've had no communication with him.
Q Thomas Thrash, have you had any communication with him?
A No.
Q James McDougal?
A No.
Q Sam Huwer?
A Yes.
Q Have you had any communications with Mr. Huwer?
A Individual communications --
Q I'm going to ask --
A All of that is privileged.

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Q Okay. Whether you've had communications or --
A I'm not going to get into what I've done, even the people -- further than this, even the people I talked to to represent my clients.
Q Okay.
A I think the choice of -- I mean I thought we were limiting this to Rose billing records, but when we move to Mr. Huwer, we've moved out of that area.
Q That was going to be my question.
A Okay.
Q Have you had any communication with Mr. Huwer about Rose's representation of Madison?
A Not that I can recall.
Q Have you had any communications with Beverly Bassett about Rose's representation of Madison?
A No -- wait a minute. I can't recall. I've spoken to her I believe on one occasion, and I cannot recall, and, again, I'm not going to get into the substance of it.

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Q I understand. Do you recall the approximate time?
A Not recently.
MR. SUNDERMEYER: That's privileged.
THE WITNESS: Okay.
BY MR. GIUFFRA:
Q In responding to subpoenas or requests of investigators calling for Rose law firm records, can you recall anyone else you might have spoken to?
A I'm sure there were others, I just can't recall them.
Q But the names you can recall we've already hit upon.
Are you familiar with an RTC Inspector General report regarding conflicts at the Rose law firm that was issued -- that is dated August 3, 1995?
A Again, what I'm familiar with in terms of my representation of these clients in this case is I believe protected by the work product privilege.
Q Okay. Mr. Kendall, just to generally go into the question of search protocol which we've already covered, but just to fill in any blanks.

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It's my understanding that documents that might be contained on the second and third floor of the White House residence would fall within your line of responsibility?

A The personal Clinton documents would fall within my area of responsibility.

Q And that would be the only type of document that would fall within your line of responsibility?

A That's correct.

Q And I believe you've said that you searched documents that were in the office on the third floor of the residence?

A That's correct.

Q The two boxes that Mrs. Huber identified in the book or junk room, depending on ones --

A And other boxes, I mean we talked to Ms. Huber and searched. She was really knowledgeable about the universe of documents and would provide us with such documents as she believed relevant for our review.

Q Okay. And you've also searched the documents that were at the Rose law firm in Little

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Rock?

A That's correct.

Q Are there any other steps that you might have taken in terms of complying with subpoenas or document requests?

A Yes. There were storage facilities for the gubernatorial documents.

Q Which is located where?

A In Little Rock. The accountant --

Q Was that searched personally by you?

A Yes and by others. The CPA for the Clintons.

Q Is that Yoley Redin?

A Yoley Redin.

Q You would have searched her documents?

A Yes. Again, we received certain documents as you know from the White House in July of 1993, those have been searched. I --

Q Those would be the documents from Mr. Foster's office?

A That's correct. I also have obtained documents from Mr. Hubbell, as you know, Mr. Lyons,

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Mr. Tisdale, Ms. Wright, and I'm sure there are also others that have been searched.

Q And insofar as you're aware, these documents were not among -- strike that.

The documents that you produced on January 5, 1996 to the Senate were not among any of the documents that you received --

A That's correct.

Q -- from any of these people? Okay. Mr. Kendall, do you have any information that would indicate that the Rose billing records that you produced on January 5, 1996 to the Senate were ever in Mr. Foster's office at the White House?

A I do not.

MR. GIUFFRA: Let's go off the record for just a second.

(Discussion off the record.)

BY MR. GIUFFRA:

Q Mr. Kendall, in connection with responding to subpoenas or requests for investigators calling for Rose law firm records, in view of the fact that you were not able to locate the documents that were

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produced on January 5, 1996, do you have any information regarding the circumstances that allow those documents to -- do you have any information regarding the circumstances under which these documents were found in -- strike that.

Okay. Mr. Kendall have you attempted to ascertain why you were not able to locate the documents that were produced on January 5, 1996 to the Senate in your prior searches?

A It's plainly work product.

Q Mr. Kendall, do you have any information -- hang on.

(Pause.)

BY MR. GIUFFRA:

Q Do you have any information regarding the chain -- strike that.

MR. GIUFFRA: Let's go off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q Okay. With regard to the chain of custody of these documents, up to January 4, 1995, you've already testified to the full extent of your

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knowledge with regard to that matter?
MR. COLE: January 4, 1996.
BY MR. GIUFFRA:
Q '6, excuse me.
A That's correct.
Q Do you have any information with regard to anyone -- whether anyone, other than your client -- other than your clients withheld the billing records from production in response to a subpoena?
A I've given you the information I have about the billing records discovered.
Q I apologize if I'm repeating anything.
Have you testified fully with regard to searches that you would have conducted at the White House residence for documents that would be responsive?
A Well responded. I don't know what the word fully means. I've responded to your questions.
Q Are there any other searches that you would have undertaken other than the ones you've testified to?

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A I've just -- I have testified to the major searches in response to the demands of investigative agencies, certainly there are other searches, requests for information, requests for documents.
Q In responding to subpoenas calling for Rose law firm records, have you spoken to William Kennedy?
A I've spoken to Mr. Kennedy, but I don't believe about subpoena compliance matters. I'm sorry, subpoena -- I'm responding to your question. Subpoena compliance matters involving the existence of Madison billing records.
Q Would you have spoken to him with regard to subpoena compliance matters regarding other records?
A I think so.
Q And questions about that would be work product?
A Yes.
Q Okay. In attempting to respond to subpoenas or document requests calling for Rose law firm records, did you speak to Bruce Lindsey?
A I don't believe so.
Q Bernard Nussbaum?

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A I don't believe so.
Q Loretta Lynch?
A No.
Q Let me just show you a record, Mr. Kendall, it bears Bates number S20085. It's dated 8/10/95, it's an entry and exit record for the White House.
A I see the record.
Q Do you have any knowledge as to whether -- as to why Mr. Jennings would have been at the White House on 8/10/95?
MR. COLE: If I could interrupt the witness for a moment, and Mr. Giuffra may not be aware of this since Mr. Jennings gave his deposition yesterday afternoon, but he did testify at some length about this meeting.
You may still want to explore it with Mr. Kendall, but there is a record in the committee's --
THE WITNESS: Well, I recall going to the White House with Austin Jennings sometime in August, the reason I went is protected work product. But this is a classical example where if you interview

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Mr. Jennings, I believe you can find out about his recollections of the meeting.
BY MR. GIUFFRA:
Q Let me show you another record S20001. It's a record of the White House dated July 20, 1993.
A I'm sorry, you said 1993?
Q It's '94, excuse me, it's been a long day.
A I'm sorry, what is the year?
Q '94.
A '94?
Q Excuse me, it's '95, I apologize.
A '95.
Q I apologize. These are all '95. I apologize.
A I see the page.
Q Do you recall who the four other persons would have been with you on July 20, 1995?
A I do not.
Q Do you recall who you might have been visiting on that date?
A I do not.

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Q I'll show you another record which indicates -- this is S20002, July 21, 1995, it indicates you went to the second floor of the White House with another person at 12:25 p.m., it's unclear when you went down, and then you went back up again at 3:01, went down at 4:37.

A I see the record.

Q Any recollection who the other person might have been?

A I do not.

Q Another record S20003, a record July 22, 1995, it indicates you went to the second floor to see Mrs. Clinton at 11:27 -- just forget about this record, strike that.

A Is that the one that shows the independent counsel is there?

Q Yes.

A In other words, Judge Star I take it is within the realm of your scrutiny?

Q That's a theory I have not heard yet. I'm sure in some quarters that might be a theory.

S20321. This is August 11, 1995.

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MR. SUNDERMEYER: We're at the 10-minute mark guys just for planning purposes.

MR. GIUFFRA: Excuse me?

MR. SUNDERMEYER: I say we're at the 10-minute mark --

MR. GIUFFRA: I think we're almost done.

MR. SUNDERMEYER: -- for planning purposes.

MR. COLE: Can we go off the record for a minute while you look at the document. I have one area of questioning they may want to confer.

BY MR. GIUFFRA:

Q This indicates that Mr. Barnett and Ms. Williams went to the second floor of the White House at 2:20 p.m.

A On what date?

Q 1995.

A I'm sorry, what's the date?

Q August 11. Do you have any information about that meeting?

A I do not.

Q Okay. Just one last question. In responding to subpoenas and document requests seeking

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Rose law firm records, would you have spoken to Margaret Williams?

A I don't think so.

MR. GIUFFRA: Okay. Thank you very much, Mr. Kendall, I have no further questions.

THE WITNESS: Thank you.

EXAMINATION

BY MR. COLE:

Q Mr. Kendall, I wanted to ask some additional questions on the subject that Mr. Giuffra touched on earlier concerning the meeting with Austin Jennings, Senior that you testified to about a week after the discovery of the Rose law firm billing records in the White House, if I understood your testimony correctly.

And I wanted to ask my questions in a way that does not impinge upon any work product protection that your activities may enjoy.

Why don't we go off the record for a moment and discuss that?

(Discussion off the record.)

BY MR. COLE:

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Q Do you recall meeting with Mr. Seth Ward in Little Rock in January 1996?

A I do.

Q Do you recall whether that meeting occurred before or after the discovery of the Rose law firm billing records in the White House on January 4th that you've testified about here today?

A It occurred one week after the discovery of the billing records in Little Rock on January the 11th, 1996.

Q And is that the only time that you have ever met with Mr. Ward?

A I was introduced to Mr. Ward at a restaurant once very briefly in 1994, that introduction lasted perhaps 15 seconds. This is the only time I've met and really spoken with Mr. Ward in any substantive way.

Q And that meeting occurred as you've testified on January 11th, 1996?

A It did.

MR. COLE: Okay. I don't have anything further.

MR. GIUFFRA: That concludes the deposition. Thank you very much for your cooperation.

THE WITNESS: Thank you.

(Thereupon, at 5:51 p.m., the deposition was concluded.)

DAVID EVAN KENDALL

CERTIFICATE OF NOTARY PUBLIC & REPORTER 102

I, CINDY L. SEBO, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPONENT David E. Kendall

ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
6	11	both the criminal	both criminal	mistranscription
10	14	photographs	photocopies	mistranscription
13	9	document	documents	misspelling
13	11	I think I	I think I had	mistranscription
14	21	Shulkey	Schuelke	misspelling
15	20	Shulkey	Schuelke	misspelling
16	6	Shulkey	Schuelke	misspelling
17	18	Shulkey	Schuelke	misspelling
17	20	I hope	I hoped	misspelling
18	9	Shulkey	Schuelke	misspelling
19	4	I was at, I	I was at. I	misspelling
22	5	Shulkey	Schuelke	misspelling
24	3	Shulkey	Schuelke	misspelling
29	8	clients	client	misspelling
41	2	fibramebees	Fibber McGee's	misspelling
42	22	Roth	Rolfe	misspelling
43	1	Sidlar	Zdelar	misspelling
44	1	Austin	Alston	misspelling
44	5	Austin	Alston	misspelling
45	4	Austin	Alston	misspelling
45	7	Austin	Alston	misspelling
47	21	documents insofar	documents; insofar	mistranscription
52	3	Shulkey	Schuelke	misspelling
52	8	Shulkey	Schuelke	misspelling

53	9	to who the	to who of the	mistranscription
53	18	Shulkey	Schuelke	misspelling
56	20	Shulkey	Schuelke	misspelling
57	2	Shulkey	Schuelke	misspelling
57	22	Shulkey	Schuelke	misspelling
61	11	Shulkey	Schuelke	misspelling
62	17	operations solvency	operations, solvency	mistranscription
62	21	said we	said, we	mistranscription
75	8	Fabriani	Fabiani	misspelling
81	1	if he she	if she	mistranscription
81	17	as, you know, yes	year. Yes	mistranscription
82	4	sworn, my	sworn, but my	mistranscription
82	22	of	or	misspelling
84	9	Austin	Alston	misspelling
84	19	you know, the		mistranscription
86	16	Hewer	Heuer	misspelling
87	9	Hewer	Heuer	misspelling
90	14	Yoley	Yoly	misspelling
93	12	discovered.	discovery.	misspelling
93	18	Well responded	Well I responded	mistranscription
95	20	Austin	Alston	misspelling
95	21	the reason	but the reason	mistranscription
97	18	Star	Starr	misspelling

DEPOSITION OF ROBERT L. SNIDER
IN RE: S. RES. 120

MONDAY, FEBRUARY 5, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of ROBERT L. SNIDER, called for examination pursuant to notice of deposition, at 10:05 a.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, ESQ.
Majority Associate Special Counsel
MITCHELL FEUER, ESQ.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALAN STRASSER, ESQ.
Kutak Rock
1101 Connecticut Avenue, NW
Washington, DC 20036–4374
On behalf of the Deponent.

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PROCEEDINGS

Whereupon,

ROBERT L. SNIDER

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. STRASSER: Would you be good enough to put on the record the time we are starting this deposition.

MR. O'CALLAGHAN: Sure. It is 10 minutes after -- it is seven minutes after 10 on Wednesday, February 7.

EXAMINATION

BY MR. O'CALLAGHAN:

Q Good morning, Mr. Snider. My name is Michael O'Callaghan. I am associate special counsel for the Senate Special Committee for the Majority. To my left Mr. Feuer, counsel for the Minority.

This deposition is being conducted pursuant to Senate Resolution 120. The Resolution establishes a special committee headed by the Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings &

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Loan Association, Capital Management Services, Incorporated, the Arkansas Finance Development Authority and other related matters. These issues will be the main focus of today's deposition.

This deposition is in advance of public hearings, which most likely will occur at the end of this month.

We will ask you a series of questions. You are testifying under oath. You were sworn in. If you don't understand the question, let us know and we will be happy to rephrase the question for you. If you need to take a break, let us know and we will be happy to accommodate you.

The stenographer is preparing a record of questions and answers. The deposition will be treated as committee confidential until the commencement of the hearings. Prior to the hearings you will be given an opportunity to review your deposition transcript.

What we have been doing with witnesses that aren't in the Washington area, we have been sending them to you so you can look at them and also provide

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you with an errata sheet if you want to make any changes to the text that you believe are in error.

You may be represented by counsel. Are you represented by counsel today?

A Yes.

MR. O'CALLAGHAN: Counsel, please identify yourself and the name of your firm.

MR. STRASSER: I am Alan Strasser. My firm is Kutak Rock.

BY MR. O'CALLAGHAN:

Q Objections to the form of questions will be noted for the record. Counsel may object on grounds of privilege or relevance. The committee chairman may rule on objections where the witness refuses to answer a question.

Please state and spell your full name for the record.

A Robert L. Snider, S-n-i-d-e-r.

Q Have you spoken with anyone other than your counsel here today about your deposition today?

A Have I spoken to anyone?

Q With regard to your appearance here today.

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A Have I spoken to anyone about my appearance? Some people in my office know I was coming up here. I told my boss I was going to be out of town, those kinds of things.

Q Anyone else?

A No.

Q Did you speak with anyone about what the potential substance of your testimony would be here today?

A Only people on my staff.

Q What was the nature of the discussions you had?

A Just to make sure that I had an accurate -- I just went back through my files and talked to some of the people on the staff who worked on some of these matters with me.

Q You reviewed documents to prepare for the deposition?

A Yes.

Q These are files that you maintained?

A Right. Well, maintained by my company.

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Q What is your present business address?
A Business address is 100 Morgan Keegan Drive, Little Rock, Arkansas.
Q Who do you presently work for?
A Morgan Keegan.
Q What business are they involved in?
A Investment banking.
Q How long have you been with the firm?
A I joined T.J. Raney & Sons on January 3, 1979, and it was acquired by Morgan Keegan approximately six years ago. Now we operate as a division of Morgan Keegan.
Q What is your present position?
A Managing director.
Q Could you give me a brief description of your employment history. First of all, have you graduated from college?
A Yes.
Q Where did you attend college?
A Undergraduate at Ouachita Baptist University, MBA at the University of Arkansas.

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Q When did you complete your MBA?
A That would have been the end of 1968.
Q Give me a brief description of your employment from 1968 through 1976.
A Two years in the United States Army, second lieutenant, Fort Benning, Georgia. In 1971, came to Washington and was on the staff of Senator John L. McClellan. From '71 until he died in '77, his appointed successor was Senator Kaneaster Hodges, to fill the unexpired term of Senator McClellan.
I came back to Washington with Senator Hodges for that period of time before joining T.J. Raney & Sons in 1979.
Q What positions have you held at T.J. Raney & Sons?
A I was hired initially in '79 as a public finance investment banker. About in 1982 or '83, I was made head of the public finance department at T.J. Raney & Sons. I basically have been head of public finance for T.J. Raney & Sons since.
When Morgan Keegan acquired T.J. Raney & Sons, they left me in that position as head of public

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finance. And now as a managing director with Morgan Keegan, I have retained that responsibility in Arkansas, Louisiana and Texas.

Q During the period of January 1983 through to December 1986, who did you report to at T.J. Raney?

A To the president of the company, Tom Raney.

Q Did you supervise anyone during that time period?

A I was made head of the department. The public finance bankers and staff.

Q How many people would you say you supervised?

A I would say we probably had six to seven bankers during that time, and support people and secretaries, probably our staff was 12, 13 folks.

Q Did you have anyone who was a specific deputy for you?

A No.

Q Could you give me a fuller description of -- again, this is during the specific time period

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January '83 through December 1986 -- what your specific responsibilities were as the head of public finance for T.J. Raney.

A During that time period, our territory was the state of Arkansas, municipal issuers in the state of Arkansas, issuers of tax-exempt bonds like schools and water and sewer systems and hospitals, et cetera.

Our mission was to serve them and to assist them in financing projects that could be financed with tax-exempt bonds. Our people on our staff actually -- we were in the professional structuring of bond issues.

Q Did you do any lead underwriting work on any bond issues during that time period?

A Yes.

Q Do you recall what issues you acted as lead underwriters during that? Give me a rough number.

A It would be hard. During any one year, we might work on 50 to 100 transactions. A lot of times we would be financial adviser. Sometimes we would be lead. A lot of times we would be co-manager.

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Q Were you involved in your company's efforts to give bond underwriting contracts with the Arkansas Housing Development Agency and the Arkansas Development Finance Authority?
A Would you say that again.
Q Were you involved in your company's efforts to enter into contracts to do bond underwriting for offerings done by the Arkansas Housing Development Agency and the Arkansas Development Finance Authority?
A Yes.
Q Who did you deal with at the Arkansas Housing Development Agency in connection with that?
A Are we talking about a specific period of time here?
Q Again, this is, say, January '83 through December 1986.
A We were members of the single-family and multifamily account of Arkansas Housing Development Agency and the Development Finance Authority, their successor, and I think we had been in all single-family bond issues of the agency since its

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inception in 1978, as well as I think we have been in all multifamily issues of the agency.
We were involved, of course -- we attended monthly meetings, public meetings. There have been several directors of the Authority since its inception in '78. We have had personal and professional relationships with them and their staff since. They are an important client of ours.
Q How did T.J. Raney first come to become part of the single-family, multifamily accounts?
MR. STRASSER: Could you explain how this is within the scope of the Resolution.
MR. O'CALLAGHAN: T.J. Raney was involved with a number of -- I believe, and correct me if I'm wrong -- underwriting teams with regard to the Arkansas Development -- Housing Development Agency as well as the Arkansas Development Finance Authority and also was involved with a number of underwriting -- with Lasater & Company.
In order to get an idea for what the relationship was with the Arkansas Development Finance Authority and Lasater & Company, part of that

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is looking at the different entities and individuals involved in the underwriting contracts and issuances that were done by the authority.

To the extent that T.J. Raney & Company were involved with it, I might get an idea for how the relationships were set up and how the operation of the whole structure worked. That's a general explanation for how it is within the scope.

MR. STRASSER: Okay.

BY MR. O'CALLAGHAN:

Q The last question I posed, and if it is too general you need me to be more specific, let me know, it was a question with regard to how T.J. Raney & Company became part of the single-family and multifamily accounts for AHDA initially; right?

A Right. Back in 1978, when housing bonds were created, it is conjecture as to who exactly did that, who did the first deal, T.J. Raney & Sons and Stephens, Inc., and this was prior to my employment there, but they were actually instrumental, I have been told, in the legislation that created AHDA.

When I came onboard, I think one issue had

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already been completed with the financing team, E.F. Hutton, Stephens, Inc. and T.J. Raney & Sons, and that was the initial team for single-family and multifamily bond issues.

So, I would say since the inception of AHDA, T.J. Raney & Sons and Stephens and E.F. Hutton were actively involved in the bond issues of AHDA.

Q With regard to the different single-family and multifamily offerings that were done by AHDA and I guess later ADFA, ADFA, were the different underwriters requires to submit proposals for each one of those offerings, or were some firms exempt from doing that?

A I recall several occasions where we would have to present qualifications and ideas specifically on multifamily finance. I think the single-family team, at least for the first couple of years, was pretty well Hutton and Raney and Stephens, but I know when the first multifamily team was composed, we did submit proposals and they considered qualifications. I'm not sure they went through that process initially because that happened before I came on.

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Q Did there come a time when the single-family team expanded or other firms were included?
A Yes.
Q Do you recall when that first occurred?
A I really don't, but it was sometime in the mid-'80s or early '80s. PaineWebber was named the lead manager, and Hutton was no longer included. So, yes, that happened.
Q Were there any specific events that caused the change in the lead manager that you are aware of?
A Yes. PaineWebber had a better idea. That was during a time of high interest rates, as you will recall back then, and PaineWebber came in with a program and with legal opinions that permitted bonds to be issued. Arkansas had a usery law problem during that time.

On the basis of that program structure, PaineWebber was hired as senior manager. The policy decision was made to include local underwriters as part of the local team, but PaineWebber took over the lead role at that point.

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Q In addition to the change in lead, more local firms were included as co-underwriters?
A Yes.
Q With regard to that being a policy decision, where did that come from? Was that from the legislature, the Governor's office or both?
A It was from the ADFA board, or AHDA board.
Q Do you remember having any reaction to that with the inclusion of more Arkansas firms as co-underwriters at the time?
A Sure. At that time it was basically a three-handed account, a third, third and third split with Hutton and Stephens remaining. After that, PaineWebber was made senior manager, and then there were other local firms added. So, our percentage of the deal went from a third to something less than 10.
Q With regard to the other Arkansas firms that came in as co-underwriters on the AHDA deals and ADFA deals later, did they have the same distribution networks that T.J. Raney had?
A Did they have the same distribution

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networks?
Q Let me help you out. Were they as extensive or as complete or were there varying levels?
A I'm sure they would claim that they did. I don't know. They had salesmen and we had salesmen.
Q With the new policy to include more local firms, did that increase the competitive environment to become a co-underwriter on these offerings?
A I'm not sure I understand your question.
Q Initially you said there were three firms involved, at least in the single-family. With the advent of the policy to include more local firms in the co-underwritings, did that increase competition for your firm to be included in underwritings?
A I'm not sure I understand what you are saying. The account was formed; there were local firms in addition to PaineWebber. I don't understand how that can increase competition to be included because the account was set.
Q With regard to the account that firms were identified as members of the account, they didn't

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have to compete to participate in the underwritings; is that right?
A They were included in the account. Of course, there was competition to sell securities when the bonds were offered.
Q Would they be part of the underwriting team automatically?
A Right.
Q How about with the multifamily, was that the same case?
A Once the account was established -- I'm not sure I understand what your point is.
Q I'm just trying to understand what the structure was for firms participating in the different offerings and underwritings and whether or not with regard to like putting forth proposals to the AHD or the ADFA board whether firms were already included in their offering and it was up to them to see how many they could sell, how many bonds they could sell or whether in order to be included in the underwriting, whether they had to be accepted with the proposal that they put forward to the board, how

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that was set up.
A Yes. It is important to be able to demonstrate to the ADFA board that you were able to sell a lot of the bonds and support the offering. That was one of the things that was pointed out after the fact. I think there were only one or two, as I recall, multifamily deals done, and then we had a long period of time where there was a long period of time before there were any more multifamily deals done.
As I recall, there were only one or two multifamily financings. I think Hutton was lead, but I am just recalling that. I may be wrong.
Q I would like to show you a multipage document that has been produced to the committee which is 11 pages long, "Arkansas Development Finance Authority" on the top. Bond underwriters, bond counsel and special tax counsel, it says, and it lists a number of different bond issuances done by ADFA or AHDA.
The document lists different types of offerings as well as issue dates, original issue

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amounts, underwriters, with the leads listed first and then authorities counsel and special tax counsel.
I show that to you and your counsel. Take a moment to review it. I will ask you to refresh your recollection as to the types of deals or numbers of deals that were occurring during that time period.
A Can I ask if this was furnished by ADFA?
Q I don't believe it was.
MR. FEUER: Put the Bates numbers in the record.
THE WITNESS: What would you like me to review?
BY MR. O'CALLAGHAN:
Q Generally review it with regard to the different types of offerings that were done. I'm specifically going to be asking you about a 1983 through 1986 time period and I'm going to ask you specific questions about the different kinds of structures that existed with regard to granting underwriting contracts with regard to the different

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types of offerings.

(Witness examined the document.)

BY MR. O'CALLAGHAN:

Q The first page of this document, the Bates have been cut off during the copying, it is DKSN 0273, and I believe it is DKSN 027373 due to the series you can see later on where it becomes 27380. With regard to the first page of the document, it has a listing of single-family mortgage revenue bonds. There is a listing of 1978 A, 1980 A, 1979 A and 1982 A.

The first question is, looking at this document, and I realize you didn't produce it, but is that consistent with your recollection as to the issuances that were done by AHDA that involved single-family mortgage revenue bonds and the single-family accounts that you referred to earlier?

MR. STRASSER: He already testified he wasn't there in '78. I don't think he can tell you anything about '78. You are asking him does he have a present recollection of whether these were the single-family mortgage revenue bonds in 1979, '80 and

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'82? Is that your question?

MR. O'CALLAGHAN: I can ask that question, yes. That would be fine.

THE WITNESS: I know that we were involved in single-family programs for AHDA during those years. I don't know who produced this. I don't know if the amounts are accurate. I don't know if the dates are accurate. I can just say that we were involved in the single-family program during those years.

BY MR. O'CALLAGHAN:

Q Looking at this document, and I'm not asking you to verify the accuracy of it, but there is a sixth issue listed on the first page, 1983 A. It lists an underwriting group which includes Blyth Eastman Paine Webber, George K. Campbell & Company, Collins, Locke & Lasater, T.J. Raney & Sons, Incorporated.

Does looking at that help refresh your recollection as to whether 1983 was the first year that the underwriting group was expanded?

A It could have been. I have already

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testified that E.F. Hutton was kind of removed and PaineWebber, Blyth Eastman was inserted as single-family.

Q With regard to the first single-family deal opened up to other underwriting firms for underwriting, were the co-underwriting fees shared equally on that offering, if you recall?

A I don't recall.

Q Generally were they shared equally or could one co-underwriter get more than the other?

A I don't know.

Q For prospectuses on bond deals for the offering, the front page of the offerings, do they generally have the listing of the different underwriters that are participating in the deal?

A Right.

Q Were those names put in any particular order on the front page of the prospectus?

A Yes.

Q What generally is the order that they are put in?

A Well, the senior manager is usually shown

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prominently and the co-managers are shown probably with a smaller typeface in a different position.

Q With regard to the co-managers, is there any specific positioning that is relevant to how they appear on the front page?

A You see it done different ways. It would be a matter of professional pride, just because this is going out to your customers and you would want your name shown prominently and in the right position.

But in some issues, they go with alphabetical order and on other issues they use different methods. If your question is is that important, the answer would be yes, that is important.

Q Is that ever reflective of the amount of the management fee each underwriter is receiving?

A It is usually reflective of role in the financing.

Q As to how much of a role each underwriting firm is involved in with regard to setting up the structure of the financing?

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A Or just involvement, yes. I think I can say here that George K. Baum appears in the account in 1983. They had a relationship with PaineWebber. I am sure through George K. Baum's office in Little Rock, PaineWebber got an audience and was able to present its ideas.

I think that is why they were included in the account, was that they had some important relationships that PaineWebber was able to utilize to present their program. I really don't recall what benefit accrued to George K. Baum by reason of that. They might have had a higher position in this; I don't know.

Q With regard to the special relationship that George K. Baum may have had, what does that refer to? You said one of the reasons why PaineWebber was able to be introduced was going through you thought maybe George K. Baum, and I think you mentioned a special relationship George K. Baum had. With that be with anyone --

MR. STRASSER: I don't think he used the word "special relationship."

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MR. O'CALLAGHAN: I wrote it down. You can read it back or whatever.

BY MR. O'CALLAGHAN:

Q Are you aware of any special relationship George K. Baum had with anyone on the ADFA board or anyone involved on ADFA that would be to their benefit in getting PaineWebber in?

A It was obviously to their benefit. Their local banker, I'm sure, wanted to get into the account, and he had relationships with people at PaineWebber. That is just business.

Q When you said "he had relationships," who are you referring to?

A Board members. He had been coming to board meetings.

Q When you say "he" --

A It is a specific banker. His name is Duby Sullivan.

Q The question was, were you aware of any extraordinary relationships he had with board members that set them apart in the local banking community.

A No.

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Q Other than what you have already described as AHD's and ADFA's desire to have underwriter firms who could effectively sell the bonds through their issuances, were there any other specific criteria that you are aware of that they used in hiring underwriters, both lead and co-underwriters?

A I think it was important to them to have local distribution of securities. I think that they were interested in including local firms. We came to the meetings. We supported ADFA in their programs. That was a policy decision that made sense.

Q With regard to the local firms that were around at the time, 1983 through 1986, if there was a single-family housing deal and a multifamily housing deal, either one being done by ADFA, were there any particular firms that were excluded from participating in the underwritings that you know about?

A Not that I know of.

Q Was it difficult for local firms to participate?

A To be included? I'm sure there were some

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local firms that would like to be included that weren't.

Q Do you know why those firms weren't included?

A No, I don't.

Q Have you ever heard why they weren't included?

A No, I haven't.

Q Do these firms have equal distribution networks that were on a similar level or part of the firms that were participating?

A No.

Q Were they inferior or superior?

A That would be hard for me to contrast.

Q Did anyone at T.J. Raney & Sons actively lobby to receive underwriting contracts with any of the ADFA board members, again, during the course of 1983 through 1986?

A Would you say that again.

Q Was there anyone at T.J. Raney & Sons involved in lobbying ADFA board members in order to help receive underwriting contracts?

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A I guess you need to define "lobby."
Q Did they have meetings with board members to try to sell the company to the board members and impress upon them that it would be to their advantage to use the company in doing underwritings?
A Well, as you can see, we are listed on a lot of these deals. We went to all the board meetings. We knew the members of the board personally. So, we had relationships, and we were actively promoting our involvement with ADFA, sure.
Q Did you personally contact board members with regard to obtaining business for T.J. Raney?
A From time to time, yes.
Q What would be the context of those contacts?
A Excuse me?
Q What would be the nature or context of those contacts? How would it normally be done?
A Usually it was at board meetings or closing dinners, that sort of thing.
Q Would you ever visit with any of the board members at their home or go out to dinner with them,

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anything like that?
A Not at their home. You know, if they were in town -- I wouldn't call it extraordinary efforts, it was just what I would call just business development.
Q Did anyone else at the company engage in that type of selling to the board members, meeting them at their homes, going out to dinner with them?
A I think during that time I was probably the principal one.
Q Did you or anyone at T.J. Raney & Company have any contacts within the Governor's office with regard to obtaining bond underwriting contacts?
A We have had several different governors during that time. I can remember one public meeting with Governor White, the Republican governor at the time, on the issue of local issuers of single-family bonds or state issuers. I do remember that.
Q This might help narrow it down specifically. During 1983 to 1986, was the time period -- that's when Governor Clinton was in office -- did any members of his staff ever meet with

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the Governor with regard to securing business for T.J. Raney?
A Not that I can recall.
Q That question was meant as to anyone at the company that you know of, not just yourself.
A Not that I know of.
Q Do you know if any of the other underwriting houses in town were involved in contacting members of the governor's staff or the Governor with regard to securing underwriting contracts?
A Not that I know of.
Q During 1983 through 1986, were you familiar with anyone who worked in the Governor's office?
A Was I familiar with anyone who worked in the Governor's office? I read about them in the paper.
Q Did you have any personal relationships?
MR. STRASSER: Can you explain how this is within the scope of your permissible inquiry?
MR. O'CALLAGHAN: This is again with regard to contacts with members of the Governor's office and

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also in relation to his employment by T.J. Raney and there also involvement with participating in bond underwriting for the Lasater Company related to issuances done by the Arkansas Development Finance Authority.
MR. STRASSER: He told you a minute ago that he nor anyone, to his knowledge, at T.J. Raney had any contacts at all with the Governor or his staff with regard to underwriting contracts.
I fail to see the relevance of whether he was familiar with anyone in the Governor's office. It does not bear under the topic you just described since he has just told you he didn't have any meetings to get underwriting business.
MR. O'CALLAGHAN: The reason I'm asking the question is because he said he didn't recall any meetings. I'm trying to flesh out his recollection to ask if he had any acquaintance with people that would help refresh his recollection as to any meetings that may have occurred that he doesn't recall.
MR. STRASSER: I will be surprised if a

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question about whether he is familiar with anyone is going to refresh his recollection about anything, but I will let him answer that one. I don't expect follow-up questions on this.

THE WITNESS: I can't recall anything.

MR. O'CALLAGHAN:

Q Did you have any interaction with anyone at Collins, Locke & Lasater or Lasater & Company between January 1983 and December 1986?

A Yes.

Q Who did you have interaction with at the company?

A Michael Drake.

Q Anyone else?

A No.

Q When did you first meet Mr. Drake?

A When he was employed by Stephens, Inc.

Q What was the first contact you had with him when he was working at Collins, Locke & Lasater?

A I can't recall specifically.

Q Do you recall whether it was in relation to a bond offering?

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A Well, if I can't recall specifically, I cannot tell you what it was about.

Q Do you have a general recollection of what the nature of the contact was or how it occurred?

A The first contact, I don't know.

MR. STRASSER: He just told you he didn't recall it.

MR. O'CALLAGHAN: I asked him generally.

MR. STRASSER: He told you twice he didn't recall. You could ask him generally, could ask him privately or standing up and he told you twice he didn't recall. Maybe we can move on and find out some facts that would be relevant to your inquiry.

MR. O'CALLAGHAN: That's what I'm attempting to do. Thank you for your assistance.

BY MR. O'CALLAGHAN:

Q During the course of 1983 through 1986, what was the nature of your interaction with Mr. Drake?

A The only interaction I can recall -- are we talking about initial interaction or what? He used to go to the ADFA board meetings, and I saw him

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there. That was it.
Q Other than meeting him at ADFA board meetings, did you do any work with him with regard to any underwritings that ADFA or AHDA did?
A Yes.
Q What type of work did you do with him in connection with those?
A Michael was involved in the state police financing.
Q Correct me if I'm wrong, but was that an ADFA bond offering or AHD bond offering?
A No.
Q Just specifically with regard to your recollection with regard to involvement you had with him regarding ADFA and AHDA bond offerings, did you have any contact with him with regard to being involved in underwriting groups that did those underwritings?
A No.
Q What type of interaction would you have with him at the ADFA board meetings that you described?

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A Just two guys attending the same meeting.
Q T.J. Raney & Sons was involved in an underwriting group that did ADFA bond underwritings. What was the level of interaction between the different co-underwriters generally in those offerings?
A Not much.
Q Would it be varying levels depending on the degree of involvement that each firm had in structuring the financing and putting the deal together?
A Are you saying would there be more involvement if they were more involved?
Q Correct.
A Yes.
Q Were you ever involved in any underwriting groups where both Lasater & Company and T.J. Raney were significantly involved in putting together the structuring for any of the deals?
A In the -- at ADFA? If you are asking about ADFA --
Q I am. Did T.J. Raney do any of the lead

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underwriting for any of the ADFA deals?
A I think our first lead was a multifamily deal that was probably in the mid-'80s, a multifamily refinancing. We have since done several.
Q Do you recall when that occurred?
A I really don't. If your list is accurate, it should be reflected there in the multifamily section.
Q Do you recall whether it was before or after 1986?
A I don't recall.
Q Do you recall whether that underwriting included Lasater & Company as part of the underwriting group?
A I don't.
Q In any of the underwriting deals that you were involved with with ADFA and AHDA, to your recollect, did Lasater & Company ever have a significant role in the structuring of any of those deals?
A Not that I can recall.
Q Would you be surprised that they would have

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a significant role in structuring the deal, or would it be possible? To the best of your estimation.
A Would I be surprised now to learn that they structured a deal in 1983? Is that your question?
Q The question is, during 1983 through 1986 -- let me rephrase it. Would you have expected them to be involved in a significant way in the structuring of any of the deals?
A No.
Q Would you be surprised if they were involved in a significant role in structuring any of the underwriting deals?
A I would be surprised if they had been.
Q Why is that?
A I think they had a very limited public finance staff. I think it was just Michael Drake.
Q Was it your understanding that the most they largely brought was a distribution aspect to the deals?
A Would you repeat that.
Q Sure. It probably wasn't phrased very well.

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The question was whether it was your understanding that what Lasater & Company brings to an underwriting group was their ability to distribute the bonds versus their ability to help structure the financing?

A I think that would be a correct statement.

Q Did you ever become aware of a time when Lasater & Company was excluded from being part of the underwriting group for ADFA or AHDA deals?

A I can't recall that.

Q Do you know or have you ever learned that anyone from Lasater & Company provided money or compensation to anyone in the Governor's office in order to be included in underwriting contracts?

A I don't know that.

Q Have you ever heard that?

A No.

Q Have you ever heard that anyone from Lasater & Company ever attempted to make payments to anyone in the Governor's office with regard to participating in underwriting deals?

A No.

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Q Have you ever heard that any one of the underwriters that participated in ADFA underwriting contracts attempted to offer money or compensation to anyone in the Governor's office in order to participate in those underwritings?

A No.

Q Have you ever heard of any money laundering that was associated with any AHDA or ADFA bond offerings?

A No.

Q Did any of the ADFA staff members maintain accounts at Lasater & Company?

A I have no idea.

Q Did any of the ADFA board members maintain security accounts with Lasater & Company?

A I have no way of knowing. I don't know.

Q Did the Governor and Mrs. Clinton maintain securities accounts at Lasater & Company?

A I have no knowledge of that.

Q Did Madison Guaranty Savings & Loan maintain a securities account at Lasater & Company?

A I don't know.

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Q Did Lasater & Company maintain any banking accounting at Madison Guaranty Savings & Loan?
A I don't know.
Q During the period January 1983 through December 1986, did T.J. Raney & Company or anyone who worked for the firm make any recommendations to the Governor's office with respect to nominations for the ADFA board?
A Not that I recall.
Q Are you aware of whether any of the other underwriting firms that participated in the ADFA deals gave recommendations for nominations to the ADFA board to the Governor's office?
A I have no way of knowing.
Q Would that surprise you, to hear that -- would you be surprised if other firms were making recommendations for nominations to the ADFA board to the Governor's office?
A Would I be surprised? No.
MR. FEUER: Why not?
THE WITNESS: There are various ways to compete in business, and a lot of people compete on

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relationships. An important board like ADFA, having a friend on the board would be an important relationship.
So it wouldn't surprise me if other firms did that. We did not do that, and I do not know if anybody else did, but it wouldn't surprise me.
BY MR. O'CALLAGHAN:
Q Was there a specific reason why you all didn't do that?
A We didn't think we would be very good at it. All we wanted was a level playing field, and we wanted to rise or fall on our merits.
Q From your experience in participating in the ADFA bond underwritings that occurred in 1983 through 1986, were you generally of the impression that underwriting contracts were based on terms of merit?
A Generally, yes.
Q Were there specific instances where you felt that they weren't granted on terms of merit?
A I couldn't be specific or recall any.
Q Do you have any recollection whether that

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ever happened?
A What ever happened?
Q An underwriting contract was granted for reasons other than the firm's merit and ability to contribute to the underwriting.
A Specifically, no.
Q I know this sounds like a degree questioning, but the question was whether you recalled if that ever happened versus the specific recollection of one that did happen, whether you have any recollection of whether that ever happened.
A "It" being what?
Q A contract being awarded for reasons other than merit.
A I don't have a specific or a general recollection.
Q Are you aware of any complaints that were raised with the ADFA board or the Governor's office with regard to contracts being offered for reasons other than the company's merit and its ability to contribute to an offering?
A Was I aware of complaints?

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Q Uh-huh.
A Would you repeat that. Was I aware of complaints about what?
Q About whether or not contracts were given for reasons other than the firm's ability to contribute to the offering for reasons other than merit.
A I can't recall anything specific.
Q Again, do you have any general recollection of that ever happening?
A What ever happening?
Q Whether complaints were raised with regard to the granting of contracts for reasons other than merit.
A Granting of contracts?
Q Underwriting contracts.
A I don't have any.
MR. O'CALLAGHAN: Let's go off the record.
(Recess.)
BY MR. O'CALLAGHAN:
Q I would like to show you a document provided to the committee, a two-page document. The

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first page is on Collins, Locke & Lasater stationery dated September 8, 1983. It says "Re: Arkansas Housing Development Agency multifamily mortgage revenue bonds (FHA mortgage loans) series 1983."

Then it reads "To the person on the attached distribution list" and the second page has a distribution list of a number of different people, different subject headings, bond counsel, underwriters counsel and for the underwriters. The letter is signed Michael J. Drake.

Take a moment to review that.

MR. FEUER: Who produced this document?

MR. O'CALLAGHAN: That document, I believe, was produced by Mr. Lasater's attorneys.

(Witness examined the document.)

THE WITNESS: Okay.

BY MR. O'CALLAGHAN:

Q Have you seen this document before?

A No, I don't recall it.

Q You haven't seen it or you don't recall?

A I don't recall.

Q Just for the record, I will read the text

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of it quickly. It is not that long.

"As a result of our efforts to develop credit enhancement techniques for the referenced financing, I have taken the liberty of arranging a conference with Mr. Raymond J. McClendeon, vice president for community development, Federal National Mortgage Association, FNMA, to discuss participation in the AHDA's multifamily program. The meeting scheduled for 10:00 a.m. Friday, September 16, 1983 has been arranged to determine a structure which will result in the following: 1, AAA bond rating; 2, net present value savings to the agency over conventional FHA insured program; 3, substantial reduction in developer/owner mortgage rate.

"Those persons who desire to attend this meeting or send a representative are requested to notify the undersigned not later than 10:00 a.m. Wednesday, September 14, 1983."

Did you attend any meetings set up by Mr. Drake in September 1983?

A I can't recall. I don't think I did.

Q Just for clarity of the record, the second

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page of the document, which has a distribution list, under the underwriters, T.J. Raney & Sons is listed with William Faulkner, Bob Snider, 3600 Cantrell, C-a-n-t-r-e-l-l, Little Rock, Arkansas. There is a notation to the right of your name. It looks like it is an n-o.

Does that help refresh your recollection whether you informed somebody you were not going?

A It looks like I didn't go. I can't recall going to the meeting. I can't recall the memo.

Q Would the type of meeting that is referenced in the document, would this have been a normal meeting that would be normally set up by one of the co-underwriters in the bond offering?

A No.

Q Why is that?

A The senior manager usually determines the structure and determines what steps to take, directs the financing.

Q Do you recall Mr. Drake ever making efforts like this to try to help determine the structure of deals or get involved in that process?

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MR. STRASSER: This is a meeting with a federal official, not a state official. I think the premise of your question is mistaken.

MR. O'CALLAGHAN: It is just Mr. Drake's involvement in helping set up not only offerings but also the way the agency dealt with offerings and different structures, I believe.

MR. STRASSER: This is a meeting with somebody at Fannie Mae. This is not even a meeting with somebody in a state agency in Arkansas, as near as I can tell, again, judging by the face of the document.

MR. O'CALLAGHAN: It discusses people from AHDA participating in the meeting. The distribution list, there are a number of people listed, Vivian Pugh, Bernard Henry, Wooten Epes, and it talks about the discussion of Fannie Mae's participation in the AHDA's multifamily program.

To that extent, it is talking about at least the function of the agency and the way they are underwriting the bonds and the type of financing they are going to be doing.

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MR. STRASSER: But he didn't go to the meeting.
MR. O'CALLAGHAN: I'm asking in general whether Mr. Drake had been involved in any similar efforts to get involved in structuring financing with the agency.
MR. STRASSER: Right. You can ask him anything you want about Mr. Drake's structuring financing with the agency. This letter is not a representation of that. This is a meeting with -- I think it is misleading to question Mr. Snider as though that had anything to do with this letter.
MR. O'CALLAGHAN: I never intended to mislead in any way or imply -- that's why I pointed out the notation "no" next to his name, to give him a chance to say whether or not he attended the meeting.
MR. STRASSER: He already told you that.
MR. O'CALLAGHAN: I want to make sure there is no attempt to mislead anybody here.
BY MR. O'CALLAGHAN:
Q I asked you if this was a typical activity

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involving a co-underwriter involved in different deals.
A I would say no, that is not a typical activity.
Q Why is it not?
A Because the senior manager, in this case I believe Merrill Lynch, on a multifamily account would have called that meeting. I see he was put on the distribution list. Dud Levi and Merrill Houchek, those were the Merrill guys involved.
Q As far as meetings of this nature, are you aware of --
MR. STRASSER: My concern is the vagueness of the question. Meetings about the structuring of the deals with AHDA? Is that what you mean by "such meetings"?
MR. O'CALLAGHAN: Correct.
THE WITNESS: This doesn't surprise me Michael would have a meeting like this and get people to attend as a way to try to play a larger role in structuring financings. This doesn't surprise me. That we didn't attend also doesn't surprise me.

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BY MR. O'CALLAGHAN:
Q Why is that?
A Well, I don't think Michael had a lot of credibility with us when it came to structuring.
Q Why was that, that he didn't have a lot of credibility?
A Because I don't know of any deals that he ever senior managed. Maybe he did, just beyond my awareness.
Q During the period 1983 through 1986, did Collins, Locke & Lasater, which later became Lasater & Company, did they have the capability to be senior managers on any of the deals that you are aware of with AHDA?
A Not that I'm aware of.
Q During the period 1983, again, through 1986, did you know Dan Lasater?
A During that period did I know Dan Lasater? I knew of Dan Lasater because I read about him in the newspaper.
Q Other than reading about him in the newspaper, have you had any contacts or communication

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with him?
A I only met him one time.
Q And when was that?
A That was in regard to the state police financing.
Q Do you remember when that occurred?
A I don't recall specifically when that occurred.
Q With regard to that, generally are you familiar with the bond underwriting that was undertaken in 1985 to finance the purchase of a new police radio system for the state of Arkansas?
A Yes.
Q How did you first become familiar with that?
MR. STRASSER: Please explain how this is relevant to the scope of the Committee's investigation.
MR. O'CALLAGHAN: Sure. While the specific language of the Resolution addresses the bond underwriting contract between the Arkansas Finance Development Authority and Lasater & Company, there is

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an understanding, and also within the scope of the Resolution, it is the bond underwriting contract financing that was involved with the Arkansas police radio communication system.

It was a state bond offering which also involved Lasater & Company, which is a part of the inquiry that the Special Committee is involved in.

MR. STRASSER: Where is that understanding reflected in the Resolution?

MR. O'CALLAGHAN: It is not reflected in the Resolution. It is our understanding that has been agreed to with the Minority.

MR. FEUER: That is my understanding.

MR. STRASSER: Is this written down somewhere, this understanding between the Majority and the Minority?

MR. O'CALLAGHAN: It currently is not.

MR. STRASSER: This is an oral understanding that, I take it, expands the scope of the Resolution?

MR. O'CALLAGHAN: That includes the investigation into the bond underwriting contracts

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involving the state police radio system in 1985.

MR. STRASSER: You agree with me it is not in the Resolution now, and you just told me that it is not written down anywhere. I take it this is an agreement reached between the Majority and Minority that expands the scope of the Committee's investigation?

MR. O'CALLAGHAN: To the extent that when the Resolution was initially written, it was intended to include an inquiry into this matter as part of the underwriting contracts.

MR. STRASSER: It was intended to include that? It is just not written down anywhere, although it was intended to be included.

MR. O'CALLAGHAN: The state police radio network financing is not specifically identified in the Resolution.

MR. STRASSER: I see. But you are telling me it was intended to be included all along; it just wasn't? Is that what you are saying?

MR. O'CALLAGHAN: It is not specifically listed, yes.

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MR. STRASSER: I know what it says. We all can read it.

MR. O'CALLAGHAN: I didn't write the Resolution. I can't really comment as to what the framers' intent was.

MR. STRASSER: So you don't know whether it was intended to be included?

MR. O'CALLAGHAN: Let's go off the record for a second.

MR. STRASSER: I don't see any reason to go off the record on this.

MR. O'CALLAGHAN: What is your understanding?

MR. FEUER: My understanding is as Mr. O'Callaghan has described, that it was intended to be within the scope of the committee's inquiry at the time that Senate Resolution 120 was drafted.

However, I believe Mr. Strasser to be correct that the text of the Resolution does not encompass this matter. I would suggest, if it is Mr. Strasser's wish at this point, that we seek guidance from the Chairman and ranking member of the

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committee.

MR. STRASSER: No, I haven't asked that. I want to understand what the basis of the question is, since obviously it is not in the Resolution. I gather the answer to me is that the Majority and Minority have agreed that this will be within the scope; that's your answer about what the basis for these questions is?

MR. O'CALLAGHAN: Correct.

MR. STRASSER: Okay. I will not force you to seek clarification of this from the Chairman of the Committee, but I think you should regard all of Mr. Snider's answers on this as taken subject to my objection that it is beyond the scope of the Resolution.

But rather than force Mr. Snider to come back here and answer questions a second time -- he already has been inconvenienced with this trip -- I will allow you to proceed with the questions, understand that everything he says about the police radio system financing is taken subject to my objection.

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If you would like, I will object before every question, but that will be very tedious. If you are willing to agree that everything that he says is taken subject to that objection, I won't object on this subject matter before every question. If you are not willing to agree to that, I will object before every single question.

MR. O'CALLAGHAN: I am actually -- I think I would prefer to bring your objection to the Chairman and ranking member now rather than -- because they are here and they are in the Senate right now and actually having hearings.

MR. STRASSER: I'm still going to object, because I can read the Resolution. I understand the Resolution provides that the Chairman resolves it. But there may be -- I don't know whether there will be any kind of further legal proceedings beyond that.

I am prepared to have Mr. Snider testify right now. If you want to go up to the Chairman and talk about it, I am happy to go up there with you. I will tell him what I told you; I think it is beyond

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the scope of the Resolution. With your agreement that his testimony is taken subject to that objection, I will allow him to proceed.

MR. FEUER: Why don't we proceed subject to Mr. Strasser's caveat.

MR. O'CALLAGHAN: I can agree to that. That's fine.

MR. STRASSER: Okay. Let's go.

BY MR. O'CALLAGHAN:

Q Before our most recent exchange, I believe I asked you about your familiarity with the financing for the police radio system for the state of Arkansas that occurred in 1985.

I guess my first question is, how did you first come to learn that the state police were looking to finance a new communications system?

A One of my bankers had worked on a jail financing down in Texarkana, and he advised me that he was aware -- this would have been probably in the fall of '84 -- that the state was getting ready to upgrade its radio communication system for the state police.

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Q How did he become aware that the state was going to upgrade the communication system?
A I think in talking to people at the state police.
Q Who did he speak with at the state police?
A I have no idea.
Q Did he speak with anyone in the Governor's office?
A Maybe. I don't know.
Q How was this presented to you?
A He was in the next office. I can't recall any specific communication. It was just, as I think back to it as to how I first became aware of it, I think it was from him.
Q Did he inform you about it in the context of doing financing for the new system or was it just a general point of interest?
A I think he communicated it to me as a need that could possibly be financed through a bond issue. He was doing his job.
Q Did he tell you how much they were looking to spend on the system or any specifics?

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A No.
Q Did you respond that you thought it would be something that could be financed by a bond issue?
A I don't recall my response.
Q After he told you about the possibility of the state police upgrading the communication system and the fact that it might be something that could be financed by a bond issue, did you talk to anyone else about this possibility?
A I think just internally we discussed it among our staff and probably on a couple of occasions. We are always looking for situations that could involve bond financing and try to have some sort of strategy to get involved. I think our discussions at that point were internal.
Q Who would have been involved in those conversations?
A Frank Surguine, now deceased, Paul Young and myself.
Q What was Mr. Surguine's position at the time?
A He was a public finance investment banker.

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Q How about Mr. Young?
A He is a public finance investment banker also.
Q Did they have titles other than that?
A At that time?
Q Correct.
A No. You mean officer titles like vice president?
Q Yes.
A I think Paul was a vice president and Frank was probably an associate.
Q Did they work for you?
A Yes.
Q What was the name of the gentleman who initially told you about the possibility of the upgrading of the state police communication system?
A My staff guy? Frank Surguine.
Q So Frank was the person who first approached you?
A Well, he was on my staff. He heard about it and he told me about it.
Q Frank was the one that worked on the jail

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financing in Texarkana?
A Correct.
Q When he first told you about the possible upgraded communication system by the state police, did he mention whether or not the state police had considered doing a bond financing in order to put the new system in place?
A I can't recall.
Q Up until the fall of 1984, do you know whether or not the state police had been involved in any financing through the use of bond issuances?
A Not that I know of.
Q After Mr. Surguine first told you about the possibility that the state police were going to upgrade the communication system and mentioned the possibility that this could be done through the financing through a bond issue, was there ever a meeting where you first took substantive steps to put together a structure for financing the purchase of the communication system through a bond issue?
A I missed your question. Was there a meeting to discuss steps?

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Q The first steps you took, whether there was a meeting where you took first steps to start the structuring --

A I can't recall any meeting that we had. During the course of the year we may close 50 to 100 deals. There are always situations that develop. I can't recall a specific meeting that we sat down and determined that.

Q Did you ever talk to anyone to put together a structuring for the police communications?

A I asked Paul Young to find out what he could about it.

Q Was that in the fall of 1984?

A Uh-huh.

Q Did he do that?

A Uh-huh, yes.

Q How did he go about finding out about putting together a structure?

A I think his first call was to David Mosely at the state police department, who was sort of the point man. He was directed to Sam Bratton, who was on the Governor's staff, who was in charge of sort of

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the effort from the Governor. This was a state agency and it would appropriately be coordinated by someone on the Governor's staff.

So, Paul had a couple conversations with David Mosely, and then he and I together met with Sam Bratton to just sort of find out what was going on. I think that meeting was in something like November.

Q Of '84?

A Uh-huh.

Q You, Mr. Young and Mr. Bratton were at the meeting. Was anyone else there?

A I'm sorry?

Q You, Mr. Young and Mr. Bratton were at the meeting in November '84?

A Yes.

Q Was anyone else in attendance?

A No. It was a very brief meeting. It was a very brief meeting.

Q What was the substance of the discussions?

A Just to find out what was going on, where they were, what they wanted to do. It was information-gathering.

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Q What did he tell you?
A Just that there was a project, they wanted to do a financing, they wanted to determine how best to finance it. There was some discussion as to whether to finance it with revenue bonds or some sort of a lease deal.

So I think part of the discussion was whether authorizing legislation was needed to permit the state to enter this kind of indebtedness. It was pretty much in its infancy at the discussion stage at that point.

Q How did the issue of authorizing legislation come up?
A Well, I think they asked us for input, and I'm sure they asked others for input as well. I think our response at the time -- it is my recollection that our response at the time was that if they went the bond route, that probably no authorizing legislation would be required, but if they went to some sort of a leased financing subject to annual appropriation, that there was the possibility that legislation wouldn't be needed, but

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really that was their call.

I think ultimately they concluded that authorizing legislation would be required if they went the shorter-term financing through certificates of participation.

Q Did you offer an opinion at the time or did Mr. Young offer an opinion at the time as to what would be a preferable way to finance it?
A I think we just submitted some alternatives; we could do it this way or this way, if you do it the bond way, this is the downside, this is the upside if you do it the lease way. Sort of an analysis of a structure.
Q Did you make the representation that you could service the financing with different types of structures or did you come down on one type of structure?
A I don't think at that point -- I think it was still pretty much a decision that everyone was trying to make. We just gave a recommendation. We even included recommendations for variable rate financings. An issuer has a lot of options. We were

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trying to present those to them, with the idea that what we were ultimately trying to do here was to get hired and to assist them with this financing.

Q Had you been working with any other firms at this point with regard to this project?

A I recall that when this came up, our first call was to Stephens to have a joint account with Stephens. We had had kind of a historical relationship with Stephens on housing and bond issues.

Just from the standpoint of the politics, we felt that Stephens is very strong, plus from the standpoint of capital. Bear in mind at this point, T.J. Raney & Sons had capital of 2 to $2-1/2 million. We are not a large firm. We are fairly small. We felt we needed a partner to take the underwriting risk. Stephens had done that for us before.

Our first call was to Stephens. They turned us down. They wanted to go by themselves on this. Our next call was to E.F. Hutton. E.F. Hutton, as we previously discussed, was a lead

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manager for ADFA and HDA.

In 1980 we completed a very difficult financing joint account with Hutton for the Little Rock Convention Center. The Texarkana jail deal I mentioned to you we were joint account with Hutton, a variable rate deal.

We just closed a three-handed deal with Hutton and Stephens for the University of Arkansas medical center. Hutton was kind of our Wall Street firm of preference at that time.

We called Steve Claiborne at Hutton and suggested that we partner on the deal. We obviously needed the capital, and although I had a lot of confidence in Paul Young to structure, this would have been -- it turned out it was the largest deal that we had senior managed in our history up to that point. We felt like we needed help.

Q You mention that Hutton had done some ADFA deals earlier. Did Hutton ever run into any problems in any of the ADFA bond underwritings they did?

A Sir?

Q Did they ever run into any problems with

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any of the bond underwriting for ADFA?
A Define problems.
Q Did any of the bond offerings they did have any problems with defaulting or being near to default?
A There was -- the last deal we did when interest rates were really going through the roof, we ended up with a real high mortgage rate, and a lot of that money didn't go out, and it had to be called. That is something you never want to happen.
What happened was conventional rates -- the rate we were able to produce on a bond deal was not that much more attractive than just a conventional rate that any borrower could borrow.
There was a -- what is it called -- just sort of a call of bonds because the money did not go into mortgages. I think that was the last deal that Hutton senior managed. So, I guess that would be considered a problem.
Q Just out of curiosity, when you contacted them for the police radio deal, was that someone you thought about or considered?

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A No, because it wasn't Hutton's fault.
Q Excuse me?
A It wasn't Hutton's fault.
Q During what period of time did you make the call to Stephens and Hutton? Was it before the meeting with Mr. Bratton or after?
A It was after the meeting with Mr. Bratton.
Q How long after would you say it was?
A It probably was within days, but I don't recall specifically.
Q Were any other underwriting firms involved in helping you put together this deal or structuring it?
A Well, yes.
Q Who was that?
A Lasater.
Q How did they become involved?
A I mentioned before that Michael Drake attended ADFA board meetings. Those were monthly meetings.
I remember a particular meeting, it must have been around this time frame, Michael Drake

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telling me that they were working on the state police deal. I cannot remember exactly what Michael said, but I remember when I came back to my office, I talked to Paul Young and said Drake is representing to me that they are pretty far down the road on this state police financing.

Michael told me that he had met with Tommy Goodwin, who was state police director, and he met with Billy Simpson, who was Chairman of the State Police Commission. I kind of got the impression that they were personal friends.

So, my first reaction to that was we are behind. But what really happened was when I talked to Hutton about us going joint account, Hutton mentioned to me that they felt like Lasater should be involved.

Q Was that before or after you talked to Mr. Drake?

A After.

Q Did they say why?

A I guess Michael had told them the same thing he had told me.

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Q Did they tell you that or you just assume it?

A I assume it.

Q You said you are under the impression that Mr. Drake and Mr. Simpson were friends?

A Yes.

Q Did he tell you that or just gave you the impression?

A Well, I went duck-hunting together with him one time, and they were members of the same club.

Q When was that?

A This was after the financing.

Q But the time he told you they had already begun work on it, did you have any idea or any belief that he was friends with Mr. Simpson?

A I don't recall specifically that. But I have the impression that they were friends, and I may have developed that sometime during the financing. I'm not sure.

Q When you said you spoke with Hutton, they said they thought Lasater should be included or involved. When did that happen? How soon after your

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conversation?
A It must have happened pretty quick, because I think we wrote a letter to David mostly in early January, and it was submitted on behalf of ourselves and Hutton and Lasater, with a recommended structure.
Q I think I may have it. I just handed you and your counsel a multipage document bearing Bates stamp DKSN 017938 through 940. It is a letter on T.J. Raney & Sons, Inc. letterhead dated January 4, 1985. Please let me know once you have had a chance to review it.
(Witness examined the document.)
The document I just showed you addressed to Mr. David Mosely and signed by Paul B. Young, Jr., is that the document you just identified as the proposal you first sent over to the state police?
A Yes.
Q This was on January 4, 1985. Just to help put it in context, the first meeting with Mr. Bratton you said was in November --
A I think it was.

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Q -- of 1984. How many meetings did you have with Hutton between your meeting with Mr. Bratton and this first proposal?
A I can't recall if we ever had any -- I can't recall. I'm sure there were telephone calls with Hutton.
Q How about with Lasater & Company?
A I don't even recall how that came about.
Q You mentioned earlier that you were one of the managers of this deal; right?
A Yes.
Q Were you all equal -- was it three equal managers?
A Yes.
Q One-third for each?
A Correct.
Q Did one firm or the other take a lead role in setting up the structuring of the deal?
A We did.
Q Did you consult Lasater & Company -- was Lasater & Company involved in setting up the structuring of the deal at all?

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A I'm sure they were involved in the discussions about it, because, as I mentioned to you before, they had been working on this deal really longer than we had. At least that's what they were representing to us.
Q Did you ever come to learn that they hadn't been working on it as long as you thought they were?
A No.
Q They represented to you that they been working on the deal. What type of work did they say they had been doing on it?
A I think that he mentioned to me that they had been working with the Mitchell firm to draft special legislation.
Q Just so we are clear, were all your conversations on this with Mr. Drake?
A Yes.
Q Did he say when they began talking to the Mitchell firm?
A No, I don't have any idea.
Q Your first conversation with Mr. Drake, was that in November or December?

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A I can't recall. It must have been in November.
Q Did he tell you how long he had been working on the deal before that?
A No.
Q Did you have any idea whether it was months or weeks?
A No, I had no idea.
Q You said that he told you he met with Mr. Goodwin and Mr. Simpson.
A I don't know if he met with them. He dropped those names, though.
Q Do you know if he had any meetings with anyone in the Governor's office?
A I have no idea.
Q Did he ever tell you that?
A No.
Q When you met with Mr. Bratton in November, did he indicate to you he had talked to other firms?
A I think I got the impression that he had already talked to Michael.
Q Did he tell you that?

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A I left there with that impression. I must have learned it from him.
Q Did he relay the content of any discussions he had with Mr. Drake to you at that meeting?
A Not that I recall.
Q Did Mr. Bratton let you know or give you the impression that he had spoken with any other firms other than Lasater & Company?
A I didn't know that based on what he told me.
Q Have you since learned that he did?
A I have not since learned that he did, but I do know that a lot of other firms were interested in it.
Q Who first approached Lasater & Company about being a member of the underwriting team for the radio financing?
A I can't recall.
Q Would it have been you or Mr. Young?
A That's possible. It could have been through Hutton. I just don't recall.
Q Did anyone from T.J. Raney & Sons approach

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Mr. Drake, to your knowledge, and indicate that the reason they were approaching Lasater & Company was because of their relationship with the Governor?
A No. That's not why we did it.
Q This is a question along the same lines. Did anyone from T.J. Raney & Sons approach Mr. Drake or anyone from Lasater & Company and inform them that one of the reasons they wanted them to join the underwriting was because Mr. Lasater and Lasater & Company had been kind to the Governor between the years of 1980 and 1982?
A No.
MR. STRASSER: What was the word you used?
THE WITNESS: "Kind."
BY MR. O'CALLAGHAN:
Q Or supported him.
So, when Lasater & Company first became involved, did T.J. Raney first approach Lasater or did Lasater & Company first approach Raney and Hutton?
A I don't recall.
Q Do you recall being concerned that Lasater

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& Company had already begun working on it?
A We wanted to be involved, and that seemed to be the strategy.
Q When you spoke with Mr. Drake in November, did he inform you that he had already done some work with the Mitchell law firm in preparing authorizing legislation?
A Yes. I think that's what you asked me about, yes.
Q Did he tell you how far along they were in any drafts they proposed or put together?
A I don't know. I can't recall.
Q Did he tell you whether or not he worked on that with anyone in the Governor's office in putting together the drafts?
A I thought he referred to the Mitchell firm. I thought it was referred to that in the letter you just showed me, the last page.
Q Do you know who at the Mitchell firm Mr. Drake was working with?
A No, I don't.
Q Did you have any contact with the law firm

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working on the legislation or any input?
A Working on the legislation, no.
Q Did anyone in your firm?
A Not to my knowledge. But it would not have been unusual. I just don't know.
Q Did T.J. Raney, Hutton, Lasater coordinate efforts to put together authorizing legislation with the Governor's office?
A As I mentioned, Michael Drake had already made a contact with the Mitchell firm, and they had already begun working on the legislation that would be required for a leased financing. That predated our involvement with Drake. When we decided to work together, that became a part of our strategy.
Q Before you got involved working on the authorizing legislation or having that as part of your policy, do you know whether or not Lasater & Company or anyone from the firm worked with anyone in the Governor's office with regard to coordinating efforts to putting that legislation together?
A I don't know.
Q Did people at T.J. Raney have contact with

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people in the Governor's office after this partnership was formed toward working on getting legislation together?

A I don't know. I don't recall anything specific.

Q Do you recall whether there was any contact with people at the Governor's office with regard to this financing with T.J. Raney employees?

A I don't recall anything specific.

Q I have one copy of this document. If you and your counsel could share. It is one page, a handwritten note, DKSN 017800.

(Witness examined the document.)

A Okay.

Q The first question is, have you seen this document before?

A No.

Q Do you recognize the handwriting on the document?

A No.

Q That's all. Thanks.

When you first -- when T.J. Raney first

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joined up with E.F. Hutton and Lasater & Company -- I guess E.F. Hutton was on board before Lasater; is that correct?

A Yes, I guess.

Q Were there any concerns expressed about any problems that Lasater & Company might have had with disciplinary problems?

A No.

Q How about net capital problems? Are you aware of any of those?

A No.

Q Did anyone from T.J. Raney & Sons attend a meeting sponsored by E.F. Hutton and Lasater & Company on January 10, 1985 at the Legacy Hotel in Little Rock?

A I don't recall that.

Q I would like to have you take a look at a multipage document Bates stamps DKSN 027487 through DKSN 027562. It is a fairly lengthy document. I'm going to ask you some very specific questions about it. The cover page, "Presentation to the state of Arkansas regarding financing structures and

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investment banking services January 10, 1985," E.F. Hutton & Company, Inc. and Lasater & Company."

If you could just -- I show it to your counsel and you.

(Witness examined the document.)

A You don't expect me to read all this, do you?

Q No, I do not.

A I'm not. What are your questions?

Q The first question is, have you ever seen this before?

A No.

Q I can't help but notice you are laughing. Is there a reason for that?

A This strikes me as funny.

Q Why is that?

A Maybe I should read this. I have never seen this before. I don't know anything about it.

Q Were you aware there was a meeting with the Governor and E.F. Hutton & Company and Lasater & Company?

A No.

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MR. STRASSER: You are telling him there was such a meeting?

BY MR. O'CALLAGHAN:

Q I'm asking if you know.

A I don't know.

Q I am asking if you are aware there was such a meeting.

A I don't know anything about it.

Q After taking a cursory glance at the documents, I noticed you were laughing. Was there a specific reason for that?

A Just that I had never seen it. It looks like a letter from Hutton and Lasater addressed to the Governor. It is about -- let me see what it is about. We are not included in it.

Q Is the reason you are laughing because you weren't included in it?

A Yes, I guess that's why I was laughing. As I look at this letter, it looks like it is Housing Development Agency. Is that the topic?

Q There is a general title on the front of it regarding financing structures and investment banking

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services.
A Uh-huh.
Q I can only judge on what the document says. If you look at the table of contents, there is a number of different services which have been identified and I think section 5 is police communication financing as well.
A Where is that?
(Witness examined the document.)
MR. STRASSER: It is 27531.
THE WITNESS: Okay.
BY MR. O'CALLAGHAN:
Q I guess we can start with, on January 10, '85, had you joined in the partnership with Hutton and Lasater & Company?
A I think our letter of January 4th would indicate that, yes.
Q Would you have expected to be included in a meeting, a presentation which included a police financing structure given to the Governor around this time period?
A Yes.

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Q Do you know any reason why you wouldn't be included in such a meeting?
A It just looks like it is a larger letter on a lot of different topics. It looks like Hutton had -- I'm looking at Hutton and Lasater. They were trying to promote their interests on a larger front with state business.
Q With regard to the police financing, I want to make sure we are clear, the first contact with Hutton was made by T.J. Raney; is that right?
A Yes.
Q Would you be upset on January 10, 1985 if you had been made aware that there was a meeting with Hutton & Company and Lasater & Company making a presentation to the Governor of this nature?
A Upset, probably not.
Q Amused?
A Amused, probably, yes.
Q Why is that?
A Well, because we were working as partners on one financing. But this is just business. I'm not shocked or surprised. It is just interesting.

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That's all.
Q Okay. Thanks.
In around the period of January 1985, the winter 1984, did you have any discussions with anyone by the name of Mahlon Martin?
A No.
Q Do you know who Mahlon Martin is?
A Yes.
Q Did you know who Mahlon Martin was in January 1985?
A I don't really know. You know, he was with the city and then he was with the state. He recently died not too long ago. But I have never had a meeting with Mahlon Martin that I know of.
Q Did anyone from T.J. Raney or Hutton or Lasater meet with the State of Arkansas Department of Finance and Administration with regard to the police radio underwriting?
A I don't know.
Q Would you have expected someone to have a meeting like that?
A With DFA?

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Q Yes.
A They typically don't get involved in bond financing. It is possible. I just don't recall.
Q Let me show you another document, multipage document. It is on State of Arkansas Department of Financing Administration letter to Governor Bill Clinton from Mahlon Martin, director. Subject, financing of Arkansas state police radio system. The date is January 17, 1985. Bates range is DKSN 017813 through 017818. Let me know when you have had a chance to review the document.
(Witness examined the document.)
A How specifically am I going to be asked about this?
Q I'm going to ask you about the -- generally about the feasible financing programs identified in the last three pages of the document.
A All right. I read that.
Q First of all, have you seen this document before?
A No.
Q I would like to direct your attention to

the page Bates 17816.
A Yes.
Q It looks like it is an appendix to the three-page letter that appears before it. It is entitled "Arkansas state police communications systems financing alternatives October 1, 1984."
Then it says "We have spent a considerable amount of time in an attempt to locate a feasible financing program for our proposed communication system. Several firms have discussed the various financial aspects of this system and several alternatives are listed," and then there is a list of five alternatives.
Is this list similar to the list you provided to Mr. Bratton?
A We didn't meet with him until November. I think we just had a discussion with him.
Q You didn't provide him with any written materials in that meeting?
A Not that I recall.
Q Had he mentioned to you that they had already spent time trying to locate a feasible

financing program?
A As I testified before, I left there with the impression that Lasater talked to him and we were talking to him then. Beyond that, I didn't know. But it looks like the staff was looking at ways to finance it back then, which is what they should have been doing.
Q With regard to the five methods of financing that are listed here, outright purchase, lease purchase, escrow funding-lease purchase, and number four, issuance of debt, and the fifth is certificates of participation, were any of those methods of financing implemented in a final financing?
A The certificates of participation was the ultimate financing structure.
Q Do you recall when was the first time that T.J. Raney, Hutton and Lasater first made a written proposal to the state police?
A I think it was that January 4th date.
Q How about after that?
A It is typical on these deals that you

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submit, and you submit to different people in different ways. I think we submitted at least two or three different times. There were written presentations and then there were oral presentations.

Q Do you know who the first firm was to provide the state police with a written proposal for the financing?

A I have no idea.

Q With regard to the underwriting team that worked on the police radio financing, who were all the different people from Hutton, Lasater and Raney that worked on it?

A Who were all the different people who worked on it?

Q Worked on getting the deal, doing the structure and the financing and the proposal, the principal people.

A The principal people with Hutton, Lasater and Raney?

Q Correct?

A Myself and Paul Young at my company,

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Michael Drake at Lasater. At Hutton, Steve Claiborne, and then there were some Hutton people in New York, Laurel Esterlin.

Q How do you spell the last name?

A E-s-t-e-r-l-i-n, something like that. Bob Neptune I think was with E.F. Hutton leasing, because we ended up doing the lease deal. Those are the principal players. There may have been others.

Q Did you mention Steve Claiborne earlier?

A Yes. I think Bernard Beal also. I know he attended one meeting. He was Hutton, New York. I think Claiborne was in Texas at the time. I'm not sure.

Q Was he in Houston?

A Yes, he is now.

Q You said in connection with the police radio financing that you had at least one meeting with Mr. Lasater; is that right?

A Yes.

Q When did that occur?

A You know, I can't really recall, but it must have been before the January letter. I would

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say within two weeks of the January letter. We had one meeting to discuss the team.

Q Where did that occur?

A It was at Lasater's office.

Q And who attended the meeting?

A Paul Young, myself. Bernard Beal was there for Hutton, Michael Drake was there. It was in Dan Lasater's office. He came in for part of the meeting. I don't think he was there for all of it. I know his bond guy, Joe Marfoglio, who ran his bond trading desk, was kind of in and out.

I don't think it was a sit-down meeting. I think we stood up the whole time. It was very brief.

Q What were the specifics of the discussion?

A I can tell you that it was determined there that we would be the lead manager.

Q That T.J. Raney would be?

A Right. That was kind of, I think, the purpose of the meeting. Of course, that was just fine with us.

Q Did you discuss breakdown of fees for each

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group?

A Back in those days you split everything equally, and that's how we did it. I think the reason for us was that we of course wanted to be senior manager. We felt like we had the expertise to do it. We knew that Lasater did not.

We felt like doing business with a Wall Street firm is always sort of a perilous proposition. We didn't know how we would be treated in terms of distribution of the bonds.

I think it was actually Michael Drake's suggestion that we be senior manager for the reason that they knew they would get better treatment of us in the distribution of bonds than E.F. Hutton.

Q Did Hutton have a problem with not being lead?

A They probably had an ego problem with that, but they got over it.

Q Did they resist T.J. Raney being lead at all?

A They didn't at that point. They may have discussed it privately, but they had no negative

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reaction to it at that point.
Q When we were discussing sharing the fees on the deal, are you referring to the management fees or the sales commissions? What is that in reference to?
A In a deal like that -- I am speaking specifically of the split of the management fee -- the sales fee would really be determined by who sold the bonds.
We actually had three account managers, us, Hutton and Lasater, and then we had a syndicate or a selling group of other firms that were included that sold bonds in the account. Those firms made takedown in direct relationship to the bonds that they sold.
Q With regard to the three firms that were managing the deal, listed as managers, would they have distributed bonds to the syndicate firms? How did that work?
A The way it works is you have an order period where you go out and take orders from the managing firms and the syndicate members. Once the bonds are purchased from the issuer, those bonds are then distributed to the various firms that

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participate in the sale.
Q Other than the management fee, was there any difference with regard to like Lasater & Company and the other syndicate firms in the distribution of the bonds?
A Yes, yes, there was a difference.
Q What was the difference?
A Well, their commissions were driven by the amount of bonds that they sold. So, in total, we made the same amount of management fee, but the sales commission side was determined by number of bonds sold.
Q Did the firms that were involved in the management of the deal, did they have a greater ability to make money off sales than just firms that were in the syndicate, or was that equal?
A In terms of ability to make money off of the sale, it was equal. Now, being a manager, you know about the deal, your salesmen know it is coming, you are able to say to your customers, we are a manager.
Because sometimes in a hot deal, when you

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have more orders than you have bonds, then of course the managers are not going to give bonds to someone else's salesman; they will give them to their own. There is an advantage to being the manager.

Q That's the value of being manager?

A Yes.

Q I would like to show you a multipage document DKSN 017894 through 17913. It is on the letterhead which reads T.J. Raney & Sons Inc., E.F. Hutton, Lasater & Company dated February 25, 1985. It is addressed to Colonel Thomas L. Goodwin, director, Arkansas State Police.

On the second page the document has a signature line with Paul B. Young, Jr., Steven A. Claiborne and Michael Drake, without signatures on it. Attached is a table of contents and numerous attachments and other articles. I'm going to ask you some general questions about the document and then I will direct you to some specific portions as well.

(Witness examined the document.)

MR. STRASSER: This is some 19, 20 pages in length. I now haven't read all of this, but why

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don't you start asking some questions and we will see if we need to read all of it before we answer.

MR. O'CALLAGHAN: I think we will be all right.

BY MR. O'CALLAGHAN:

Q Just generally, have you seen this document before or a form of this document before, which is dated February 25, 1985?

A Yes.

Q Where did you see it?

A I think we have a copy in our files.

Q Is this a copy of a proposal that was put together for purposes of doing the underwriting for the state police communication system?

A This is a written proposal that was submitted in follow-up to our letter of January 4th in which I believe we are making more specific recommendations as to the proposal.

Q Did the State Police Commission request T.J. Raney, Hutton and Lasater to make proposals at this point?

A I can't recall. I cannot recall if this

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was the formal written presentation or if there was something we submitted on our own initiative. We do it both ways in our business.

Q Just to try to get an inside track on the business?

A Yes.

Q I would like to direct your attention to the third paragraph on the first page.

There is a paragraph reading "We have of necessity made certain assumptions in order to do this preliminary analysis of the financing. These assumptions are set forth in the following pages. Based upon these assumptions, subject to additional facts which are learned or developed and based upon current market conditions, the financing we propose provides for principal and interest payments of approximately $3 million per year, substantially less than the current annual revenues for driver's license fees, an effective cost of borrowing of 4.7 percent per year."

Do you know how that 4.7 percent per year cost of borrowing was arrived at?

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A No, I don't.

Q Is the cost of borrowing a major factor involved in these types of financing?

A Sure.

Q How is that usually determined?

A The cost of the debt minus the interest earnings. It would be a net number.

Q Does that normally vary from proposal to proposal depending on how the structure is done?

A No.

MR. STRASSER: You are talking about proposals at this time. I think the law has changed since.

BY MR. O'CALLAGHAN:

Q At this time.

A Correct.

MR. STRASSER: In '85?

MR. O'CALLAGHAN: Correct.

BY MR. O'CALLAGHAN:

Q I didn't hear the answer.

A Yes, the cost of borrowing is and was at that point an important feature to consider because

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it took into account not only the cost of debt, but interest earnings.
Q Would that vary from proposal to proposal?
A Yes.
Q From firm to firm, depending on how the deal was structured by the different firms?
A Correct.
Q Would you say that was a major element that the issuer would look at in determining who to hire as an underwriter?
A Yes.
Q Would that be the prevalent or the most important factor or would it be one of the most important factors?
A It would be the most important factor. That's how we got hired.
Q I would like to direct your attention to a specific page, if I can find it, 017904. It is page 8. It says "Profile of Lasater & Company, Inc. "
A Yes.
Q The last full paragraph, "Lasater & Company served as the investment banking firm for Lasater,

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Inc. in the $19.5 million acquisition of Angel Fire Corporation in New Mexico in August 1994."
Were you familiar with that underwriting of that acquisition?
A Only from press accounts. I am not personally familiar with it.
Q Was that an acquisition that was used as a selling point to you to include Lasater & Company?
A No.
Q Then the last question I have is with regard to what is listed as Exhibit A on page 17905. That's the last question for now, at least on this document. It says "An act authorizing the leasing of communications equipment for the Department of the Arkansas State Police providing for the payment and security of the cost of the equipment and for other purposes."
Is this a copy or a draft of authorizing legislation that was anticipated?
MR. STRASSER: Give me a chance to read before you ask. The document will speak for itself as to what it is.

BY MR. O'CALLAGHAN:

Q The question is, with the proposal that you submitted in February of 1985 to the state police, did that include a draft of authorizing legislation for state police communications financing?

A I would just say apparently it did. Apparently this is a draft. I don't know that.

Q You don't recall?

A No.

Q It is your recollection that in February of '85, at that point a draft of authorizing legislation had been put together by the Mitchell law firm?

A Yes, I believe so.

MR. O'CALLAGHAN: Off the record.

(Discussion off the record.)

(Whereupon, at 12:55 p.m., the deposition was recessed, to be reconvened at 1:40 p.m. this same day.)

AFTERNOON SESSION (1:40 p.m.)

Whereupon,

ROBERT L. SNIDER

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

MR. O'CALLAGHAN: Let's go back on the record.

EXAMINATION (Continued)

BY MR. O'CALLAGHAN:

Q Mr. Snider, I want to show you a multipage document. It has a cover page reading "Presentation to the State Police Commission for the State of Arkansas." It says "Prepared by" -- the margin has been cut off a little bit -- "Raney & Sons Inc., E.F. Hutton and Lasater & Company." DKSN 027805 and continues through 027873.

Let me know when you have had a chance to review it and I will have some general and specific questions.

(Witness examined the document.)

Have you seen this document before?

A Yes.

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Q When did you see it?
A I think we have a copy in our files.
Q The second page of the document is on E.F. Hutton letterhead. It is dated April 22, 1985, a letter addressed to Mr. David Mosely, fiscal officer, Arkansas State Police. It is regarding state police communications financing and it is signed three signatures, Paul B. Young, Jr., Steven A. Claiborne and Michael Drake.
Did you have any role in preparing this document?
A No.
Q When did you first see this document?
A I may have seen it back at the time, but I saw it when I reviewed the files.
Q To your knowledge, is this the proposal that was given by T.J. Raney & Sons, E.F. Hutton, Lasater & Company to the Arkansas Police Foundation for financing the radio system?
MR. STRASSER: Do you want him to read every page?
MR. O'CALLAGHAN: I'm asking if, as far as

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he knows, is this a copy of the document that was presented to the State Police Commission.
MR. STRASSER: You are asking if he has a present memory of whether this is the proposal. Go right ahead and ask him. The answer you get will be worth whatever it is worth.
MR. O'CALLAGHAN: Okay.
THE WITNESS: Could you ask the question again.
BY MR. O'CALLAGHAN:
Q As far as you know, is this the document, the proposal that was presented to the State Police Commission by E.F. Hutton, T.J. Raney & Sons and Lasater & Company with regard to the state police radio financing?
A As far as I know, this looks like our written proposal that was submitted in response to the request for a written proposal.
Q Do you have any reason to believe that it isn't the proposal that was presented?
A No, I don't have any reason to believe that it is not.

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Q Directing your attention to the second page, which is Bates stamped 27851.
A Yes.
Q Again, in the third full paragraph, there is a sentence which begins halfway down that paragraph, "Based upon these assumptions, subject to additional facts which are learned or developed, and based upon current market conditions, the financing we propose provides for principal and interest payments of approximately $3.17 million per year and an effective cost of borrowing at 4.4 percent per year."
Is 4.4 percent per year effective cost of borrowing consistent with your recollection of what the proposed cost of borrowing that T.J. Raney and Lasater and Hutton submitted with their proposal?
A I don't know. I have no way to know.
Q Do you know what the actual effective cost of borrowing was in the deal that was eventually done?
A No.
Q Do you know if it was higher or lower than

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the one that was proposed?
A I don't. I don't know.
Q Have you ever heard that there is an accusation made that the rates proposed in this proposal were lower than what could actually be accomplished with the finished deal?
A No, I have never heard that accusation.
Q With the number that is presented here, with the anticipated cost of borrowing at 4.4 percent per year, would that be considered to be a hard number or a number that was considered to be flexible?
MR. STRASSER: Would it be considered to be by whom?
MR. O'CALLAGHAN: By Mr. Snider.
THE WITNESS: No, it would not be considered to be a hard number.
BY MR. O'CALLAGHAN:
Q What would cause that to change?
A Just like the letter says, based on assumptions. Assumptions change.
Q Within a certain degree of -- strike that

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question.
I would like to direct your attention to page 27856. The top reads "Sources and uses of funds," and it has two tables of sources and uses and then has a number of numbered items, number 5 of which is "Underwriters' discount is 2.5 percent of the issue."
A Uh-huh.
Q What does that refer to?
A That refers to really the gross fee amount for the entire underwriting team, the difference in the purchase price from the issuer and resale to the public, 2-1/2 percent.
Q Is that a percentage that is proposed by the underwriters?
A Yes.
Q Is that percentage that is usually standard throughout different deals or does it depend on the structure of the deal?
A Depending on the structure of the deal.
Q If that percentage is higher, is that a cost that is incurred by the issuer?

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A The issuer has to pay all the money back, and the greater the discount, the more the cost to the issue.
Q I would like to direct your attention to page 4, the next page, 27857.
A Okay.
Q There are some tables which read "Debt service schedule." Could you briefly describe what that refers to.
A This is an estimate apparently that was made in April of how $25 million could be amortized. What it is intended to show is principal and interest on the bonds offset by debt service reserve fund income to get to a net debt service fee.
Q The table says "period ending" and then it has principal and then a column says rate and another says interest and scheduled debt service. Then there is DSRF and income and then net debt service.
With regard to the first three columns, the period ending 12/1/85, principal, rate and interest, there don't appear to be any numbers under principal and rate. Is there a reason for that?

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A I don't understand.
MR. STRASSER: You are asking him about a document that he didn't prepare, that he can't swear to you that he saw contemporaneously and you are asking him to explain it?
BY MR. O'CALLAGHAN:
Q Are you familiar with the debt service schedule that was set up that was part of the deal for the police radio financing?
A No.
Q Who would be familiar with that?
A This is on E.F. Hutton letterhead. I don't know who actually prepared it.
Q Did T.J. Raney have a role in helping determine what the debt service schedule would be in connection with this deal?
A On this particular document, I do not know if that was produced by T.J. Raney or E.F. Hutton or who made those assumptions at that time.
Q So, you were not familiar with the debt service schedule at the time of the deal?
A No. This was a written proposal submitted

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in April.
Q Did you have any degree involvement with the proposal at that time?
A The written proposal, no.
Q Did you have a role with regard to the state police underwriting at that time?
A Yes.
Q What was your role at that time?
A I was manager of the public finance department of T.J. Raney & Sons. At that time we were probably working on 10 or 15 deals, and I had a supervisory role.
Q Do you have any knowledge of when the April proposal was delivered to the State Police Commission?
A When? No.
Q Before T.J. Raney, Hutton and Lasater submitted their proposal to do the underwriting for the State Police Commission, had T.J. Raney, Lasater or Hutton been in receipt of any of the proposals of any of the other firms competing for the underwriting?

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A Not that I know.
Q Did anyone in the Governor's office have any contact with anyone at the State Police Commission with regard to the selection of underwriters for the police radio bond underwriting?
A I don't know how I would know a thing like that. I don't know a thing like that.
Q Did you ever hear that?
A No.
Q Did you have any discussions with anyone on the State Police Commission with regard to what criteria they were using for choosing underwriters?
A Did I talk to any members of the state police about criteria for selection of the underwriters? No.
Q Did anyone at T.J. Raney?
A I don't know.
Q How about Lasater & Company?
A I don't know.
Q Would that be a normal course of business, to contact the people at the State Police Commission with regard to what they were looking for as far as

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criteria for underwriters?
A Would that be normal? Yes, that would be normal.
Q Would that have been a contact that would have been made by the lead manager of T.J. Raney or would it have been done by Hutton or Lasater, or could it have been done by all three?
A I don't know how to answer that. Since I told you that we didn't do it but that it would be normal, then I have no knowledge of if anybody did or who did.
Q Are you aware of the analysis conducted by the State Police Commission in reviewing the proposals by the various underwriters?
A I am aware of an analysis performed for a member of the State Police Commission by an actuary that was instrumental in their process.
Q And who was that?
A I don't know his name. The commissioner or the actuary?
Q The actuary.
A I don't know his name.

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Q Was it a John Meyer?
A I have seen that name in press accounts, but I don't know him. We didn't have anything to do with it.
Q How did you become aware that an analysis was done?
A In the oral presentation, one of the commissioners, Johnny Mitchum, stated that he was having difficulty making an apples-to-apples comparison of the competing firms.
There were seven firms competing for this. They narrowed it down to four. Of the four, he was having difficulty making an apples-to-apples comparison of the projected benefits of the underwriting team. He employed an outside actuary to look at the numbers, who came to the conclusion that we had the best proposal.
Q This was during the day when oral presentations were given by the competing firms?
A That's when I was first aware of that.
Q Did you attend the oral presentation?
A Yes.

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Q Did you deliver an oral presentation?
A I think I was involved. There were several of us involved in our presentation.
Q Who was there for that?
A Paul Young, myself. There were two or three people there with E.F. Hutton. As you may know, E.F. Hutton had troubles of their own at that point, and a lot of the questioning had to do with E.F. Hutton.
I'm sure that Michael Drake was there, but I don't recall him saying anything. He may have. I just don't recall.
Q Was anyone else there from Lasater & Company?
A Not that I'm aware.
MR. FEUER: Just for the sake of clarity, let me ask one question. What were the troubles that Hutton was experiencing that you just referred to?
THE WITNESS: The oral presentations were in early May, I think May the 10th, something like that. On May the 1st, there was an article in The Wall Street Journal to the effect that E.F. Hutton

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had pled guilty to a 2000-count indictment for mail and wire fraud.

When that came out, there was some press coverage of the deliberations of the commission in narrowing the group from seven to four. And in the press coverage, there was an article that said they were really concerned about E.F. Hutton because of this having pled guilty to this problem.

When that came out, we were all concerned about whether that was going to jeopardize our team. So, that was the problem I was referring to.

BY MR. O'CALLAGHAN:

Q Just for accuracy and clarity's sake, I will show you a document DKSN 027874. It is a one-page document which is minutes of meeting of financial screening committee for communication system dated April 24, 1985.

Halfway down the minutes, there is a section which reads "The financing proposals were received until 9:00 a.m. on April 22, 1985. Eight proposals were received."

Please take a look at that, just so we are

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clear on the number of proposals in case your memory wasn't accurate, if that helps refresh.

MR. STRASSER: He didn't testify he had a failure of recollection. If you think he is mistaken about the number of proposals, then we will just go on.

MR. O'CALLAGHAN: Sure, just to make sure everything is accurate.

(Witness examined the document.)

THE WITNESS: What is the question?

BY MR. O'CALLAGHAN:

Q You testified earlier that you thought that there were seven firms that had submitted proposals. I just wanted to know, looking at this, if you remember whether there were seven or eight.

A I think what I was going on there was we received a letter once we were notified that we were hired and maybe they said seven other firms. That's what the source of that is.

Q Okay. With regard to the problems that Hutton was experiencing, did anyone at T.J. Raney or Lasater & Company have problems or have concerns

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about the legal problems that Hutton was experiencing with regard to their ability to participate effectively in the underwriting?

A Our concerns were not whether they were capable or not but just sort of the PR fallout from that.

Q Was the Hutton, Lasater, Raney group eventually chosen to do the underwriting for the police radio?

A Yes.

Q Am I correct that it was narrowed down to four proposals?

A Correct.

Q Were you ever informed of why your group was chosen over the other three?

A Yes.

Q Without being too unnecessarily technical, can you explain why that was?

A We included a one-year debt service reserve in our proposal. For some reason Stephens only had a six-month debt service reserve in their structure.

At that point you could have unlimited

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arbitrage earnings of the investment rate over the bond rate. Since we had a larger debt service reserve, twice the amount of Stephens, then we were able to generate more earnings. Those additional earnings were reflected in our proposal and in our written and our oral presentation.

The commission, especially the actuary, was able to document that. We got hired on the merits.

Q Can you explain what you mean by higher arbitrage earnings?

A Every bond financing has a debt service reserve which is equivalent to an amount you just put back in case there is a default. We had a one-year's principal and interest in a reserve fund.

Prior to -- and counsel here will know what -- 1986, there was an ability to invest that money at whatever rates you could invest it in. We were able to invest it. Because it was a larger principal amount, we were able to get twice the investment earnings off the debt service.

Is that sufficient?

Q Yes. Was there any specific language in

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the legislation that authorized the underwriting?
MR. STRASSER: The legislation will speak for itself. Don't ask him questions about the legislation. It either says it or it doesn't say it. He is not a lawyer. He didn't write it.
BY MR. O'CALLAGHAN:
Q Are you aware that there were complaints made by competitors of yours that certain aspects of your structure, structuring of the deal with regard to payment schedules were not provided for in the legislation?
A No.
Q Did you attend a May 17 Arkansas legislative council meeting --
A Yes.
Q -- in 1985? Was the underwriting of the state police communication network discussed during that meeting?
A Yes.
Q Do you recall any comments that were made during that meeting by Mr. Neil Hertenstein of Clayton Brown Company?

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A Yes, I do. I remember he was there. I remember he talked. I remember he was upset. I don't know what he said.
Q You don't recall what he said?
A No.
Q I would like to show you a document entitled "Minutes of the meeting of the Arkansas legislative council, Friday May 17, 1985," DKSN 027211 through DKSN 027222. I'm going to direct your specific attention to beginning on page 3, "Reports on joint interim committees, communications study committee, state police communication."
I would like you to review the paragraph starting "Chairman Benham."
A Okay.
(Witness examined the document.)
I have read it.
Q I will mainly ask you about the references to Mr. Hertenstein's comments.
A Okay.
Q The first question is, after reading the portion I just identified for you, does that help

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refresh your recollection as to what Mr. Hertenstein said during the meeting?

A Yes.

Q I would like to direct your attention to page 4, about four lines down, the sentence "Mr. Hertenstein stated that his company was proposing that the state make payments on a monthly basis, which incidentally was stipulated in legislation passed last session of the Arkansas General Assembly. The Raney, Hutton, Lasater proposal proposed annual and semiannual payments."

Do you recall him making that distinction between the two proposals?

A I don't recall that.

Q Do you recall complaints with regard to the fact that the Raney, Hutton, Lasater proposal proposed annual and semiannual payments?

A I don't recall.

Q Were there ever any complaints made that the Raney, Hutton, Lasater proposal did not comply with the legislation which authorized this underwriting?

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MR. STRASSER: You asked that before and he told you he didn't recall that.

THE WITNESS: No.

BY MR. O'CALLAGHAN:

Q During the spring and summer of 1985, were you aware of any opposition to the authorizing of the award for the underwriting to T.J. Raney, Lasater and Hutton that was raised by the legislative council?

A Was I aware of opposition to the award? Yes, I was.

Q What was your understanding of that?

A That at the meeting on -- whenever the first legislative council meeting was, the recommendation on the State Police Commission was defeated on a narrow vote. I can't recall exactly what was going on there. I knew that the vote was not approved.

Q What was your reaction upon hearing that?

A Well, we were very disappointed, but honestly, when I went to the meeting and I saw that Paul Benham was chairman of the committee, whose son was a partner of Stephens, and I saw Jack Stephens

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there, I figured they had worked the deal pretty well.

This was just normal competition in Arkansas. They wanted the deal. They managed to get enough votes for it not to be approved on that occasion. I think they put it off a week, and I think they met a week later and approved it.

Q Did anyone from the underwriting group take any steps to convince any legislators to rethink their positions?

A I don't know. We didn't.

Q When you say "we didn't," you mean T.J. Raney?

A T.J. Raney & Sons didn't, no.

Q Did you or anyone at T.J. Raney have any contact with anyone in the Governor's office with regard to the rejection of the proposal?

A No.

Q Did anyone at Lasater & Company?

A I don't know.

Q How about at E.F. Hutton?

A I don't know.

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Q Did anyone in the Governor's staff approach any state legislators about changing their votes on the rejection of the proposal?

A I have no idea.

Q Did the Governor approach any of the legislators about changing their votes on the proposal?

A I have no personal knowledge of that.

Q Have you ever been told that?

A Have I been told that? No.

Q Have you learned it through other means or been informed of it through other means?

A It seems like I read a newspaper article about it after the fact.

Q Other than that, any other means?

A That's it.

Q Was any of the money that was raised through the underwriting after the bonds were sold, was any of the money raised through any of the underwriting firms doing the deal?

A Say that again. I'm not sure I understand.

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Q The question is whether -- let me rephrase the question. Let me get back to that.
In connection with this underwriting and the financing of the project, were any other funds used other than the funds raised through the selling of the bonds?
A For the completion of the project?
Q Correct.
A The police communication system?
Q Correct.
A I don't know.
Q Do you know if fees from driver's license renewals or driver's licenses were utilized?
A Fees from driver's licenses were the actual stream of revenue that was pledged to the repayment of the debt.
Q Whose idea had it been to use the driver's license revenue for that purpose?
A I have no idea.
Q Do you know if it was someone from an underwriting group or from the state?
A I have no idea.

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Q Was any of the money that was raised from the driver's license fees or revenue invested for any period of time after it was collected during the underwriting?
A I'm not sure I understand.
Q The fees that were raised from the driver's licenses --
MR. STRASSER: Are you asking if the state of Arkansas invested the money it received from the driver's license fees? Are you asking him that?
MR. O'CALLAGHAN: If he knows, yes.
MR. STRASSER: Go right ahead.
THE WITNESS: Please ask the question again.
BY MR. O'CALLAGHAN:
Q I am probably not being very clear. The question is whether the fees that were raised from the driver's license renewals that were committed to the stream of revenue for the repayment of the debt, was any of that money invested through any of the underwriting firms involved in the deal?
A Not that I know. Those are state revenues.

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Q Did T.J. Raney receive any investment money from either -- from the state in connection with this underwriting?
A Not that I know.
MR. STRASSER: Are you asking him whether T.J. Raney had anything to do with what he described earlier as the debt reserve, as putting that in Treasury bills? Is that what topic you are trying to get at? Is that what you mean by "investing"?
MR. O'CALLAGHAN: That's what I'm getting at.
MR. STRASSER: It took me three rounds of questioning for me to realize that was what you were getting at.
THE WITNESS: I don't know any investment of funds by T.J. Raney & Sons in association with those funds. I don't know of any.
BY MR. O'CALLAGHAN:
Q I apologize for not being clear on the question.
During the period 1983 through 1986, did you know Governor Clinton at all?

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A Yes.
Q How did you know him?
A I read about him in the paper every day. I knew him personally before he was Attorney General.
Q Did you have any contact with him during that time period?
MR. STRASSER: What exactly is the relevance of this?
MR. O'CALLAGHAN: Once again, this is relevant with regard to referring to the Governor's relationship with the people involved with the different underwriting contracts, Lasater & Company --
MR. STRASSER: You are asking him about his friendship with Clinton to see about Lasater's underwriting contract? I am surprised you can keep a straight face when you say that.
MR. O'CALLAGHAN: He has been involved with underwritings both with ADFA and --
MR. STRASSER: Your question had nothing to do with that, nothing. You just asked him how does he know Clinton.

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MR. O'CALLAGHAN: Exactly.
MR. STRASSER: I will instruct him not to answer that. You find something relevant to your inquiry.
MR. O'CALLAGHAN: Just so you think I am not going off the deep end --
MR. STRASSER: I think you are far off the deep end.
MR. O'CALLAGHAN: That's your prerogative to think that in representing your client. If you will permit me to explain.
MR. STRASSER: I will give you a second try.
MR. O'CALLAGHAN: I'm trying to establish what Mr. Snider's relationship is at all with Governor Clinton, as to how that relates to his knowledge of Governor Clinton's relationship with Mr. Lasater.
MR. STRASSER: Ask him that.
MR. O'CALLAGHAN: I have to lay a foundation.
MR. STRASSER: You don't.

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MR. O'CALLAGHAN: It is my responsibility as counsel to the committee, I have to develop a sufficient foundation that satisfies me in my background.
MR. STRASSER: I think you are prying into private matters that have nothing to do with the committee's inquiry, and I will instruct him not to answer it.
MR. O'CALLAGHAN: The purpose of the question was not to pry in any way into those private matters.
MR. STRASSER: It is not a question of your subjective intention in asking the question. There is no conceivable relevance to that question and your proffered explanation for the basis of it.
MR. O'CALLAGHAN: The record is what it is.
BY MR. O'CALLAGHAN:
Q I would be happy to ask you right now whether you have any knowledge of the Governor's relationship with Mr. Lasater.
A No. Personal knowledge, no.

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Q Do you have any knowledge -- you said personal. Do you have any other knowledge of the relationship?
A Only that which would be available to anyone who reads the paper.
Q During the period 1983 through 1986, did you have any communications with Governor Clinton with regard to underwriting contracts with regard to ADFA, AHDA or the state police communication system?
A No.
Q Do you have any knowledge of Mr. Lasater's relationship with Roger Clinton?
A No, other than what I read in the paper.
Q During the period 1983 through 1986, did you have any contact with Roger Clinton?
A No.
Q I believe you testified earlier that you met Mr. Lasater one time; is that correct?
A In the period 1983 to 1986, that's correct.
Q Does that include all contact, both social and professional?

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A Correct.
Q Other than Mr. Drake and Mr. Lasater, did you have contact with anyone else at Lasater & Company?
A No.
Q Do you have any knowledge of any campaign contributions given to either Governor Clinton's campaign or inaugural funds by anyone at Lasater & Company?
A No.
MR. O'CALLAGHAN: I would like to go off the record for about five minutes.
(Recess.)
BY MR. O'CALLAGHAN:
Q I just have one more question. This is with regard to your knowledge of events during 1985, whether you had any knowledge that there was -- that Mr. Lasater was under criminal investigation at any time during 1985.
A I did not know that. You mean at the time of the state police financing? Is that specifically what you are asking?

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Q At any time during the year.
A I don't know when all of that came out.
Q Did you eventually learn that he was under investigation?
A When the grand jury announced his indictment on live television, I figured it out.
Q Before that, did you have any knowledge?
A No.
MR. O'CALLAGHAN: I have no further questions at this time.

EXAMINATION

BY MR. FEUER:
Q Mr. Snider, let me introduce myself again. My name is Mitchell Feuer. I am a counsel on the Minority staff of the Senate Banking Committee, and for purposes of this deposition, I will be asking you questions on behalf of the Minority members of the Senate Special Committee on Whitewater.
The questions that I'm going to ask you will cover the same areas that Mr. O'Callaghan has already asked you about. I apologize for the repetitive nature of this proceeding. I will try to

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move as quickly as possible. If at any time you don't understand my question, please let me know and I will try to explain myself or rephrase the question so that you do understand it.
If at any time you want to take a break or you wish to confer with your counsel, please let me know and we will go off the record for that purpose.
A Okay.
Q Was the underwriting of bonds for the Arkansas State Police Commission that we have discussed today a type of underwriting known as a firm commitment underwriting?
A No.
Q What type of underwriting was it?
A A negotiated underwriting.
Q Did the Raney, Hutton and Lasater firms commit to purchase the bonds issued by the Arkansas State Police Commission?
A What we committed to do was to have a best-efforts offering of securities into the market and to take indications of interest for bonds on the date of sale, to confer with the issue with the State

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Police Commission. We advised them before we went into the market as to what they could expect in terms of an interest rate.

At some point in the process of selling the securities, we would underwrite or make a firm commitment to the issuer that we would buy the securities at a certain price. That's what we did. We underwrote the bonds at a price agreeable to the issuer.

That's basically a best-efforts negotiated underwriting as opposed to a firm commitment underwriting.

Q Did the Raney, Hutton and Lasater firms each purchase bonds issued by the State Police Commission?

A They were purchased on behalf of the account, and from the offering each of the firms sold bonds.

Q Was each firm's ability to make money from the underwriting dependent on each firm's ability to sell bonds to investors?

A Correct.

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MR. O'CALLAGHAN: Other than the management fee; right?

THE WITNESS: Correct.

BY MR. FEUER:

Q Was it your expectation that T.J. Raney would earn more from reselling the bonds to investors than it would from the management fees received from the State Police Commission?

A At that point it was impossible to tell whether we would sell, how many of the bonds we would sell. I can't tell you today how many bonds we did sell.

Q At that time, typically did you expect the Raney firm to earn more from selling bonds to investors than from receiving management fees and underwritings?

A That would be a good general statement, yes.

Q Did the Raney, Hutton and Lasater firms allocate the bonds equally among themselves in the Arkansas State Police Commission bond underwriting?

A No. As I mentioned before, we had a

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syndicate, other firms, Wall Street firms selling bonds in addition to the three managers. In reviewing the files, I saw that Lasater sold I believe 3-1/2 million of the bonds for New York delivery out of the total 29 million. I really don't know how many bonds we sold.

Q Were the underwritings of bonds for the AHDA and ADFA firm commitment underwritings?

A Some were. Most were not. Most were negotiated financings.

Q When Mr. Surguine spoke to you in the fall of 1984 regarding the communication system for the Arkansas State Police, was it your impression that the possibility that there might be a financing opportunity related to the state police communication system was confidential information of any sort?

A No.

Q Was it your impression that other firms might also be aware of the opportunity for a financing?

A Yes.

Q When did you learn that the State Police

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Commission was reviewing or considering alternative financing mechanisms for a new communications system?

A I probably heard that from Paul Young, my staff anchor, who was working on it. There was a period of time there, as I testified before, when we were talking to Sam Bratton in the Governor's office, where they were trying to decide which financing alternative would be best. And I guess somewhere in all of that it became clear to me that they were considering that.

Q Had you learned that by October 1, 1984?

A I'm not sure, because -- when I look back, I just look in my files, I think our first meeting was in November. I may have learned about it sometime in October. I'm just not sure.

Q Did you have an impression in the fall of 1984 that financing the purchase of the new communication system would be more advantageous to the state of Arkansas than a cash purchase of the system?

A I'm sorry. Would you repeat the question.

Q Did you have an impression in the fall of

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1984 that it would be advantageous to the state of Arkansas to finance the acquisition of a new communications system for the state police rather than to purchase such a system for cash out right?

A That would be my impression at the time; it would be more advantageous to finance than to pay as you go.

Q Why did you form that impression?

A Well, it is just -- my impression would be based on the idea that it is more efficient to finance a house than it is to build one one room at a time. If you have a system that you need -- and there was a need in the state of Arkansas for a police communication system.

Our system was I think built in the 1940s. A trooper had been shot a couple years before because there was not an adequate police communication system in place. We needed it then rather than to build it over time.

Q Did the state police seek input from investment firms regarding financing a new communications system prior to the enactment of

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legislation authorizing the bond issue?

A I don't know that they did, but they were open to our input, and we assumed they were talking to others. So I guess the answer to that would be yes.

MR. O'CALLAGHAN: But you don't know; right?

THE WITNESS: No.

BY MR. FEUER:

Q Did Stephens, Inc. make a proposal to the state police regarding financing of a new communication system prior to the enactment of legislation authorizing the bond issue?

A I'm not sure I know the date of the enactment of the legislation. Was that in the spring?

Q A copy of Act 817 that has been produced to this committee bears a notation, "Approved by Governor Bill Clinton April 4, 1985."

A Then the answer would be yes.

Q The answer would be yes, that Stephens, Inc. did contact the State Police Commission

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regarding the financing --
A That's my assumption, because they were among the eight proposals submitted and they were one of the four firms that made the oral presentation.
Q Did Stephens, Inc. make a proposal to the State Police Commission in March of 1985?
A I don't know.
Q I'm going to show you a document that bears numbers DKSN 017803 through 17811 and ask whether this refreshes your recollection as to whether Stephens, Inc. made a proposal to the Arkansas State Police prior to the enactment of legislation.
MR. STRASSER: He hasn't said he has a failure of recollection. But he will be happy to read this.
(Witness examined the document.)
THE WITNESS: I have not seen this proposal. This could be fun.
MR. STRASSER: Take your time and read it.
THE WITNESS: What is the question again?
BY MR. FEUER:
Q I'm not going to ask you any questions

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about their proposal. I won't deny you the pleasure of looking at it if you would like.
My question was whether you have knowledge that Stephens, Inc. made a proposal to the Arkansas State Police Commission regarding financing of a new communication system prior to the enactment of legislation authorizing that?
A I guess I would say the date was in April and this was dated March, that a logical person would conclude that they submitted this beforehand.
MR. O'CALLAGHAN: You are assuming --
MR. STRASSER: Is this the same --
THE WITNESS: It looks like they have the same problems as we do.
MR. STRASSER: I was referring to a typo.
MR. O'CALLAGHAN: The basis of your answer is based solely on this document that was just handed to you; right?
THE WITNESS: Right, pretty much. I mean, I knew they were interested in the deal because we called them first to try to be partners with them and they turned us down.

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BY MR. FEUER:
Q Are you familiar with the Arkansas State Purchasing Office?
A Am I familiar? No.
Q Do you know what the Arkansas State Purchasing Office is?
A I could probably conclude that they were for purchasing for the state, but I have had no involvement with them.
Q Were you familiar in 1985 with a gentleman named Mr. Erxleben?
A I have heard that name, but I couldn't tell you what he did.
Q Did you hear that name in connection with the bond underwriting for the Arkansas State Police Commission?
A That's possible, but I really don't know.
Q Was it your impression that Arkansas state government officials, other than the members of the State Police Commission, played a role in the selection of underwriters for the bond issue?
A Not that I know of.

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Q Did the members of the State Police Commission seek out the expertise of other Arkansas state government officials in considering the proposals?
A They could have. I don't know that.
Q When you made an oral presentation to the State Police Commission regarding the Raney, Hutton, Lasater proposal, were you or other representatives of the Raney, Hutton, Lasater group asked questions about how your proposal compared with other proposals?
A Were we asked questions about how our proposal compared to others? I'm trying to remember. We must have known that, because I remember one of our exhibits had to do with comparing our proposal to their proposal. So, I guess the answer would be yes.
Q Did you have the impression that the members of the commission were comparing your proposal to the other proposals?
A Yes.
Q Did you form an impression as to whether

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the representatives of underwriting firms other than Raney, Hutton and Lasater who were present at that meeting believed that they stood a chance of being awarded the bond underwriting contract?

A Do I think that the other firms competing for the business thought that they had a chance of being hired? Yes.

Q Was that based on comments that they made during that meeting?

A Well, I guess I would say that they obviously thought they had a chance of getting hired. They were there and were presenting their credentials.

Q Did you think they stood a chance of getting hired?

A Oh, absolutely, absolutely.

Q Did the participation of the -- did the joint participation of the Raney, Hutton and Lasater firms make their joint proposal an attractive one, in your mind?

A Was our proposal attractive? Yes.

Q Was your proposal attractive in part

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because it involved the participation of the three investment firms?

A I think that had something to do with it, that we had two local firms and one national firm, yes.

Q And would the presence of two local firms and one national firm provide for an effective distribution of the securities to be underwritten?

A Yes. We felt like we had the strongest distribution team, clearly. We had as many salesmen as Stephens did, and Lasater had a room full of them, and Hutton was Hutton.

Q Was Hutton one of the largest -- did the Hutton firm have one of the largest brokerage firms in the country at that time?

A Easily, yes.

Q Were you aware of any suggestion in 1985 that the state fund the acquisition of a new communication system for the state police by borrowing money from the state employees' retirement system?

A I was not aware of that.

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Q What was the relationship between Mr. Benham and the Friday firm and Stephens, Inc.?
A Stephens had a relationship with the Friday firm in this financing. One of the partners of the Friday firm was Paul Benham. His father was Paul Benham, Sr., who was I believe chairman of the legislative audit committee.
Stanley Russ, who was a banker for Stephens, who was also in the room that day, had a father, Stanley Russ, Sr., who was also a member of the legislative audit committee.
Q Who was his son?
A Stan Russ, Jr.
Q Who was he?
A He worked for Stephens.
Q Is the Friday firm a law firm in Little Rock?
A Correct.
Q Prior to 1983, was E.F. Hutton the lead underwriter for single-family bond issues for the AHDA?
A Correct.

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Q Did the AHDA become dissatisfied with E.F. Hutton's performance as lead underwriter for those bond issues?
A I think it was more a case that ours is an idea-driven business. The state police financing was an idea. PaineWebber had a better idea than E.F. Hutton, and that's why they took over the managership of the single-family program. They came in with a structure that worked.
Q Was the program not working under the structure developed by E.F. Hutton?
A Well, I think there had just been a period of time when because of high rates in Arkansas, we were not able to launch a successful program under E.F. Hutton's lead. At one particular month, at an ADFA board meeting, PaineWebber showed up, they had an idea, they got hired, boom, it was done.
Q Had E.F. Hutton previously tried and failed to develop an idea that would make the program work?
A I think they were really trying hard to figure out how to make it work during that time.
Q Following the designation of PaineWebber by

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AHDA as lead underwriter for single-family mortgage bond issues, did the number of underwriters for those bond issues increase?

A Yes, that was the case.

Q Did you have an impression at that time as to why the AHDA had expanded the number of underwriters in its bond issues?

A Did I have an impression as to why they did that? I'm sure I did at the time, but I know it was just announced that they were expanding the team, this is the local team, these are the folks involved, fait accompli.

Q Did expanding the number of underwriters increase the competition to sell the bonds underwritten?

A I think that is true, yes.

Q And would that competition allow the AHDA to borrow money more cheaply?

A I think that's probably a true statement for this reason, that to the extent that the local firms sold more of the bonds, that meant more of the bonds would go to retail rather than institutional.

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Retail bonds, as a general statement, can be sold at lower rates than the institutions who sort of dictate terms. So the greater the local distribution, and that means to Arkansas individuals, banks, et cetera, the impact on the borrowing rate is significant.

Q When Mr. Drake worked at Stephens, Inc., did he work in the public finance area?

A I think he worked in corporate finance.

Q During the period 1983 to 1984, did the Raney firm and the Lasater firm both participate as underwriters of AHDA and ADFA bonds?

A I think that's correct.

Q Did T.J. Raney underwrite just as many bonds in that time period as did the Lasater firm?

A Probably more, I would think.

Q Was it your impression that the Lasater firm was getting more bond business than was the Raney firm?

A No.

Q With respect to a bond underwriting, what is an official statement?

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A A final official statement is an offering document furnished to customers in which they are informed of the structure, the credit, the details of the bond financing.
Q Are official statements publicly available to investors?
A Yes.
Q Do official statements provide information regarding the identity of the bond underwriters and the contractual relationships between the underwriters and the issuer?
A Yes.
Q Were the bonds issued by the AHDA and ADFA accompanied by official statements?
A Yes.
Q Was that the case for the bonds issued by the Arkansas State Police Commission as well?
A Yes.
Q What are rating agencies?
A Rating agencies, Standard & Poor's and Moody's, located in New York, review the credit of issuers of bonds and assigned a rating system to give

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the buying public an idea of the ability of the issuer to repay the debt.
Q Do the rating agencies typically look at the identity of bond underwriters and the contractual relationships between bond underwriters and bond issuers when they prepare ratings for bonds?
A I don't think that is a factor in the credit of an issuer.
Q Have any of the bonds issued by the AHDA or ADFA gone into default?
A No, they have not gone into default.
Q Have the bonds issued by the Arkansas State Police Commission gone into default?
A No.
MR. FEUER: I don't have any more questions at this time.
MR. O'CALLAGHAN: I have a couple quick follow-ups. I will try to make it as quick as possible. I will work my way backwards through the questions Mr. Feuer just asked you.

EXAMINATION

BY MR. O'CALLAGHAN:

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Q He asked you if any of the AHDA, ADFA bonds had gone into default. Specifically during the period 1983 through '86, do you know if the bonds had any other problems other than going into default?

A One of the programs of ADFA was a guaranteed program that guaranteed industrial development bonds.

There were a couple situations there where companies financed through ADFA for industrial development bonds got behind in their payments and ADFA had to actually come good on their guarantee.

When that happened I'm not sure, to tell you the truth, but it was probably sometime in the '80s.

MR. FEUER: Do you know who underwrote those bonds?

THE WITNESS: No, I don't.

BY MR. O'CALLAGHAN:

Q Do you know what companies were involved?

A I think it was one of those competitive deals that they had a lot of projects together and had a series of bonds for different projects. They

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really financed quite a number of small companies in Arkansas.

I think on those particular deals, ADFA had an RFP process to select their banking team. Sometimes we were in the deal and sometimes we weren't. It had nothing to do with the bankers or ADFA or anything.

Q Do you recall the name of the companies who received the financing who had problems with the payments?

MR. FEUER: Unless the bonds were underwritten by Lasater & Company, I'm not sure that the identity of the company is relevant.

THE WITNESS: I don't recall. I really don't. I don't remember the name of the companies. I don't remember the name of the underwriters. I do recall that there were one or two instances that ADFA will tell you that they had to make good on the guarantee.

BY MR. O'CALLAGHAN:

Q Did they put out RFPs for the single-family multihousing offerings?

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A Do they now?
Q Did they then.
A I know they did on the multifamily.
Q Those are requests for proposals; is that right?
A Right.
Q Do you know any other type of offer they put RFPs out?
A They do on everything now.
Q During the period 1983 through 1986, who had a better underwriting capability; would you say it was T.J. Raney or would Lasater & Company have a greater capability?
A T.J. Raney.
Q Where would Lasater & Company rank, just the best you can, with George K. Baum, Stephens and T.J. Raney?
A Based on the number of salesmen they had, probably above Baum and below Raney.
Q Would you also factor in that the number of people they had actually doing the underwriting -- you said Lasater had Michael Drake; is that right?

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A I'm going on number of salesmen at the desk.
Q How many people do they have in comparison to other people involved in the underwriting?
A In doing the underwriting? George K. Baum had one guy. Lasater just had one guy, Michael Drake.
MR. FEUER: Did T.J. Raney have anyone other than you and Mr. Young?
THE WITNESS: We had a staff of around five or six or seven bankers. We had a total in the public finance department around 13, the same size as Stephens had.
BY MR. O'CALLAGHAN:
Q During 1983-1986, do you recall what percentage or do you have an idea what percentage of the bonds were sold to retail customers versus institutional customers?
A On which particular debt?
Q Was there a general trend?
A It would be awfully hard to generalize about that.

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Q We were talking earlier how for the police radio deal, you felt you had the strongest distribution team. But you also identified earlier that one of the reasons why you got together with Lasater & Company was because you believed they had already begun working on the deal; is that correct?
A Yes.
Q Was part of the reason you brought Lasater & Company on due to their political connections?
A Well, I really think it was Hutton's strong suggestion that we include Lasater in the financing. I think that was the reason we did it. I don't think we were impressed with their political connections.
Q Hutton was the main impetus for putting them on?
A Yes.
Q Who at Hutton?
A Steve Claiborne.
Q Do you know where he works now?
A In Houston.
Q Who did he express that to, if you recall?
A Would you repeat the question.

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Q Who did he tell that they wanted to have Lasater & Company, you?
A Yes.
Q Mr. Feuer asked you earlier whether you thought that the other firms who were competing for the state radio underwriting thought they had a chance to get the contract and you said yes.
A Yes.
Q Did anyone at Lasater & Company tell you that they thought that getting the contract was a done deal or automatic or anything like that?
A No.
Q And I think you said with your presentation, one of the exhibits had to do with comparing your proposal to other proposals.
A Uh-huh.
Q Was that during the oral presentation?
A Yes.
Q Did other firms have access to other firm's proposals?
A Must have.
Q Do you know specifically if other firms --

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A I don't know. Typically in presentations like this, once the proposal is laid on the table, it is a public record.
Q Were other firms allowed to observe the oral presentations of the different firms competing?
A I think that it is typical in our business that you step out while your competition is making their presentation. I remember standing in the hall, so I know we were out during everybody else's.
Q But it is public for everybody else?
A Yes.
Q That's my understanding of it.
We were talking about the police underwriting and discussing how the bonds are allocated to the three different firms. I think you said you believed that Lasater & Company sold around 3.5 million for New York delivery.
A Right.
Q What does "for New York delivery" mean?
A You can either deliver the bonds in New York for institutional pickup or in Little Rock for local or retail sales. Just in reviewing my

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records on this deal, I saw a sheet that showed that Lasater had 3-1/2 million bonds in New York on the day of closing, compared to Hutton had over 7 million delivered in New York.
There were a list of other firms in the syndicate that had about 19 million of the 29 million bonds were delivered in New York.
Q Did Lasater & Company deliver any firms locally?
A I assume they did, I just don't have a record that would reflect that.
Q I think I said firms. I meant bonds.
A Yes.
Q You said that Mr. -- is Mr. Young at Morgan Keegan?
A Yes.
MR. O'CALLAGHAN: I have no further questions at this time.
Any statements you would like to make?
MR. STRASSER: Can we have a voucher to get our expenses reimbursed?
(Discussion off the record.)

(Whereupon, at 3:35 p.m., the deposition was concluded.)

ROBERT L. SNIDER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey

Notary Public in and for the
District of Columbia

My Commission Expires SEPTEMBER 14, 1996

DEPOSITION OF ROBERT SHULTS
IN RE: S. RES. 120

THURSDAY, FEBRUARY 8, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of ROBERT SHULTS, called for examination pursuant to notice of deposition, at 3:05 p.m. in Room 534 of the Dirksen Senate Office Building, before DAVID L. HOFFMAN, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, ESQ.
Majority Deputy Special Counsel
MARK J. BRENNER, ESQ.
Majority Assistant Special Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
STEVEN H. FROMEWICK, ESQ.
Minority Assistant Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALSO PRESENT: STEVEN SHULTS (by telephone)

41-385 97 - 34

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PROCEEDINGS

(3:05 p.m.)

Whereupon,

ROBERT SHULTS

was called as a witness herein, and having been first duly sworn, was examined and testified as follows:

MR. BRENNER: Mr. Shults, this is a deposition conducted pursuant to Senate Resolution 120. I believe you have a copy of Senate Resolution 120.

MR. SHULTS: I'm sorry, Mr. Brenner, I do not have a copy of that Resolution. I've never seen one.

MR. BRENNER: I'm sorry, it was my understanding that we had sent you a copy when we requested documents from you.

MR. SHULTS: I don't believe that's so, but I could be wrong. Hold on just a minute and I'll look at see.

(Pause.)

MR. SHULTS: I don't find in my file that I have ever received such a document, but I don't

know that that's of any importance.

MR. BRENNER: We could fax you a copy if you wish.

MR. SHULTS: You can do that after we finish the deposition. That would be fine.

MR. BRENNER: Do you consent to be sworn over the phone?

MR. SHULTS: I certainly will.

Whereupon,

ROBERT SHULTS

was called as a witness herein, and having been first duly sworn, was examined and testified as follows:

THE WITNESS: I would like to make a request before beginning this deposition. I would appreciate receiving a copy when it is transcribed.

MR. BRENNER: We will be receiving a copy of the transcript and we'll be asking you to sign a consent not to disclose the deposition to anyone other than your attorney.

THE WITNESS: I don't believe I will sign such a consent. I think that's too limiting and I

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don't want to run the risk of inadvertently doing something that I've said I wouldn't do, so I'll not sign anything like that.

MR. BRENNER: What we may have you do, then, is we may have you review the deposition here in Washington, because it's quite likely that we're going to call you for public hearings, and we'll allow you the opportunity to review it in the presence of somebody from the Committee.

THE WITNESS: As I have mentioned to you, I believe, Mr. Brenner, before, it will be quite difficult for me to come to Washington, and I would hope, after you are finished with this deposition, that you will realize that you have all of the knowledge that I could possibly contribute to your inquiry, and that my trip to Washington would be totally unnecessary.

MR. BRENNER: We're just going to go off the record for a minute.

(Discussion off the record.)

MR. BRENNER: Let's go back on the record.

Mr. Shults, Mark Brenner.

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THE WITNESS: I know we've been off the record, but I hope that someway the comments I've made which I hope would be conveyed to whomever will make the ultimate decision will, if not on the record, at least be accurately conveyed.

MR. COLE: Let me just state then, for the record -- this is Lance Cole, Mr. Shults. What we discussed off the record, and that was your concern about having to come here to Washington to appear at a hearing next week.

You outlined for us some health considerations that bear upon that and we discussed the fact that we would take your deposition and then consult as to the Committee's need to have you appear or perhaps not have you appear here next week. And we also discussed the possibility of bringing those health considerations to the attention of the Chairman and Ranking Member, either through a letter from your or by ourselves, after we've concluded your deposition. And we would certainly agree to do that.

THE WITNESS: I'm comfortable with that, Mr. Cole.

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MR. COLE: Thank you. Why don't we just proceed with the deposition, then, and try to go forward.

BY MR. BRENNER:

Q Mr. Shults, Mark Brenner. I'm going to run through some of the preliminaries. Senate Resolution 120 establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters.

Section 1(b)(3)(a) of Senate Resolution 120 authorizes investigation and public hearings into the operation, solvency and regulation of Madison Guaranty Savings & Loan, and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty.

Additionally, Section 1(b)(3)(e) allows the Committee to look into the sources of funding and the lending practices of Capital Management Services,

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Incorporated. This is a deposition in advance of public hearings anticipated to occur later this month. And as we stated off the record, you may be called to testify at the hearings.

I'm going to be asking you a series of questions. I'm going to ask you to testify under oath. If you don't understand a question, let me know and I'll rephrase it. If you need a break for any reason, just let me know.

The stenographer will prepare a record of questions and their answers and the deposition will be treated as Committee confidential until the commencement of hearings.

Prior to the hearings, you will receive a letter from the Committee if you're called to testify, telling you that you may come to the Senate to review the transcript of your deposition and make note of any corrections for the transcription on an errata sheet, and we would provide you with a copy of that deposition.

You may be represented by counsel and objection to the form of questions will be noted for

the record. Your counsel or you may object on the grounds of privilege or relevance, as can counsel for either the minority or the majority. The Committee chairman will rule on all objections where the witness refuses to answer the question.

You are already sworn in so I'd ask you to state your name for the record.

A Robert Shults.

Q And your present business address?

A 200 West Capital Avenue, Suite 1600, Little Rock, Arkansas 72201.

Q Have you spoken with anyone in the last couple of days, since I called you to notify you of this deposition, about the deposition?

A Yes.

Q Who did you speak to?

A Well, I've spoken with my law partners in this office. I've spoken with Mr. Buddy Sutton.

Q Who is Buddy Sutton?

A One of the attorneys who represents Jim

Guy Tucker in his criminal case.

And also with George B. Collins who's an attorney representing Jim Guy Tucker in the criminal case, in order to get from them clearance on being able to testify about what is in my file without violating the lawyer/client privilege between me and Jim Guy Tucker.

Q What was said to you by Buddy Sutton and George Collins?

A That I could testify about anything that is in the file without violating the lawyer/client privilege.

Q Was that the complete discussions you've had?

A I think I've told my wife that I was going to do this. And as far as I know, that's all.

Q Have you testified about similar matters, either orally or in writing?

A Nothing like this, no.

Q Have you been interviewed by anyone about any of the matters that we may cover today?

A I have not. I have given my entire file,

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the same entire file I produced for your Committee, to the Office of Independent Counsel here in Little Rock on April 12, 1994, pursuant to a Grand Jury subpoena for my file in connection with this matter. And there again, I obtained permission from my client to do that.

Q Who exactly was your client?

A It was, I would guess, Castle Sewer and Water as well as Jim Guy Tucker, who was one of the owners of that company.

Q So you were representing both Castle Sewer and Water and Jim Guy Tucker?

A Yes.

Q When did you first come to have discussions about representing Castle Sewer and Water and Jim Guy Tucker?

A I believe it was on July 25, 1986.

Q Who did you have discussions with?

A I believe my initial discussion was with Jim Guy Tucker.

Q Was that a meeting at your office?

A Yes.

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Q At that point, were you asked to represent both Castle Sewer and Water and Mr. Tucker, or just Castle Sewer and Water?

A I believe I was asked to represent both of them. That gets a little uncertain, but that's the way I interpret it.

Q At this initial meeting on July 25th, were you given details about the underlying purchase of Castle Sewer and Water?

A Yes.

Q Was that in the form of documents or in the form of discussions?

A Probably both.

Q Do you recall what documents you were given at that time?

A No, because I was given some documents then, and a number of documents over the period of time when I was negotiating in regard to the dispute between Castle Sewer and Water and Madison Guaranty. And I'm not sure which ones were given to me initially, or subsequently.

Q Did anyone, at the time of the July 25th

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meeting, or in the next couple of days, the 26th or the 27th, produce documents to you, other than Mr. Tucker?

A It seems to me that perhaps Sarah Hawkins or Steve Cuffman, who were then in some sort of managerial positions at Madison Guaranty may have given me some documents.

Q At that time, you weren't provided any documents by Mr. Randolph?

A I don't think so. Subsequently, I was provided calculations and documents about Mr. Randolph, but I don't remember whether that was around July 25 or later.

Q Do you recall from the documents that you've seen when Castle Sewer and Water was incorporated?

A No, I'm sorry, I do not recall.

Q If I tell you that it was incorporated on December 31, 1985, does that refresh your recollection?

A It does not refresh my recollection, but I have no reason to dispute that.

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Q Do you recall ever seeing the papers of incorporation for Castle Sewer and Water Company?

A Not unless they are in that file which I supplied to you. If they're in there, I probably saw. If they are not, I didn't.

Q In that preliminary stage of your representation, did you seek information about the original purchase of Castle Sewer and Water Corporation by Jim Guy Tucker and R.D. Randolph from Madison Guaranty?

A No. As I recall, the transaction was that the sewer system was bought by Castle Sewer and Water Corporation from Madison Guaranty or Madison Financial.

I don't know, as I understand what you're asking, you're saying that Mr. Tucker and Mr. Randolph bought it first and then put it into the corporation.

Q No, I misspoke if that was the question.

I'm trying to determine, at that preliminary stage of your representation, whether or not you were given information about the purchase by

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Castle Sewer and Water of the sewer system?
A Yes, I was.
Q What information were you given?
A I was given some documents which showed the agreement that obligated Madison Financial to provide a certain number of hookups to the sewer and water system each year. Essentially information that substantiated what I put in a letter dated July 30, 1986, a letter from me to the Board of Directors of Madison Guaranty Savings & Loan.
In that letter, I state certain things about the agreement between the parties, and I see now by looking at the letter, I see a copy of this had been previously furnished to me by Ms. Sarah Hawkins, so I guess I got that document from her.
But having gotten that document, I was then told, either by Mr. Tucker or Mr. Randolph, or both, what the terms of the agreement were.
Q Could you repeat the last sentence of that answer?
MR. BRENNER: I'll have the Court Reporter read back the answer.

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THE WITNESS: I don't know where it started.
(Readback.)
BY MR. BRENNER:
Q I'm looking at a copy of your July 30, 1986 letter to the Board of Directors of Madison Guaranty that starts:
Ladies and gentlemen: We are writing you on behalf of Castle Sewer and Water Corporation.
A Yes, I have that.
Q This is a three-page letter?
A Yes.
Q I just wanted to make sure I had the right one.
MR. COLE: Why don't we note for the record that these documents aren't Bates numbered so therefore it's not possible for us to refer to them by number. And what we'll try to do for the record is describe each document sufficiently so that it's clearly identified, as I think Mr. Brenner has done in this case.
BY MR. BRENNER:

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Q In the letter, you talk about the key elements of the agreement. The first one is that Madison would guarantee 110 hookups each 12 months for three years at $500 per hookup.

Is that correct?

A Yes, sir.

Q Do you recall discussing with Jim Guy Tucker that portion of the agreement?

A I'm sure that I did.

Q Do you recall what was said to you or what was said about this portion of the agreement?

A Only that that was an essential part of the contract between the parties.

Q Was that contract an oral contract?

A I don't think so. I'm putting my hands on the agreement furnished to me by Ms. Hawkins, but I believe it was written.

Q There's a letter written July 29, 1986 on Jim Guy Tucker's stationery where you are cc'd with enclosure.

And the letter reads -- and I'll then give you a minute to find it -- it's addressed to Sarah

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Hawkins.

Dear Sarah, enclosed is a copy of the contract negotiated between Castle Sewer and Water Corporation and Jim McDougal. Our independent counsel in this matter is Robert Shults in the Worthen Bank Building. He will be writing to Madison later this week to begin explanation of ways to settle this matter.

A I have not found that letter but I'm sure it's somewhere here in this file.

Q We'll give you a minute.

(Pause.)

Q I believe it's toward the back of the file that you produced to us, if you're file is in a similar order as ours. It's probably about 75.

MR. GICALE: Off the record.

(Discussion off the record.)

MR. BRENNER: Can we go back on the record, please?

THE WITNESS: Yes, I see it.

BY MR. BRENNER:

Q Do you have the enclosure as well as the

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letter?
A Yes, I do, although the enclosure I have does not appear to be signed.
Q The enclosure I have doesn't appear to be signed either.
A That must be the same one.
Q That was going to be my question do you. Have you ever seen a signed copy of this agreement?
A I do not know.
Q Well, did Mr. Tucker produce to you, to the best of your recollection, a signed copy of this agreement?
A I do not know. But if there is not a signed copy in the file, which you have, that I sent to you, then I have never had a signed copy because I sent to you everything that's in my file.
Q Do you recall Mr. Tucker ever telling you he had a signed copy of any agreement which would require Madison Guaranty to provide hook-ups to the Castle Sewer and Water Utility System?
A I do not recall.
Q You don't recall seeing one, or you don't

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recall Mr. Tucker showing you one?
A I do not recall seeing one or him showing me one.
Q Now in your July 30th letter, you mention a number of key elements to the negotiation between Castle Sewer and Water and Madison, and you stated that you had received a copy of the agreement that had been previously furnished to Ms. Hawkins, but you had received your copy of the agreement from Jim Guy Tucker.
Is that correct?
A I believe I say in that letter that I received it from Ms. Hawkins. There may be another one in this file. I think I got the agreement that I referred to in my letter to the Board of Madison Guaranty from Sarah Hawkins.
Q Because you say in your July 30th letter, the second paragraph, last sentence, right before "key elements," that a copy of this agreement has previously been furnished to Ms. Sarah Hawkins.
A Oh, that's right. That's probably the agreement that accompanied Jim Guy Tucker's letter.

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Q And so you probably didn't receive from Ms. Hawkins a copy of the agreement?
A I believe you're correct.
Q You probably received it from Mr. Tucker?
A Yes.
Q Was that the first document you received from Mr. Tucker on this matter?
A I cannot be sure it was the first one. It was certainly one of the earlier ones.
Q I'm curious to find out if you received copies at the early stages of your negotiation of any of the documents from February of 1986 between Madison Guaranty, Madison Financial Corp. and Jim Guy Tucker, or Castle Sewer and Water?
A I don't recall any such documents. And if they are not in this file that I've produced, I did not receive them.
Q In terms of starting the negotiations with Madison, what documents, other than the agreement, were you using to get a complete understanding of the transaction between Madison Financial and Castle Sewer and Water?

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A I'm not sure that I reviewed any other documents because after I wrote my letter of July 30, 1986, and began discussions with Sarah Hawkins and Steve Cuffman, no on on behalf of Madison Guaranty ever disputed the terms of the agreement.
Q So no one from Madison Guaranty asked you to provide a copy of a signed agreement whereby Madison would guarantee 110 hookups each 12 months for three years?
A I don't know that anybody from Madison ever did ask me to do that. No, I don't know.
Q Did anybody from Madison ever call into question the assertion that Castle Sewer and Water had made an agreement that would guarantee 110 hookups each 12 months for three years.
MR. COLE: You mean Madison Financial?
MR. BRENNER: Madison Financial.
THE WITNESS: Neither from Madison Financial or Madison Guaranty. No one ever disputed the terms that were set out in my letter of July 30, 1986.
MR. COLE: So if I'm understanding you

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correctly, Mr. Shults, no one at Madison Guaranty, including Mr. Cuffman or Ms. Hawkins, ever denied or disputed that Mr. McDougal, on behalf of Madison Guaranty or Madison Financial had entered into this agreement with Castle Sewer and Water.

Is that correct?

THE WITNESS: That is correct. I think they acknowledged from the beginning that such an agreement had been entered into.

BY MR. BRENNER:

Q How did they acknowledge that?

A In their discussions with me, in talking about a resolution of the problem.

Q How in particular did they acknowledge the requirement of the 110 hookups?

A Well, I don't know specifically except to say that they acknowledged early on that that was an essential part of the agreement between the parties.

Q I guess my question is then, at the end of the first page of this July 30 letter, you say we need only complete detail editing of the written contact, and each party will be bound by this

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agreement.

Do you see that?

A Is that of the agreement? Where is that?

Q It's the last sentence on the first page of your July 30, 1986 letter?

A Yes, I see that.

Q You didn't sign this agreement?

A Excuse me?

Q Madison Financial didn't sign this agreement, did they?

A No. Not in my presence.

Whether they signed it earlier is the matter you're inquiring about, and I can't testify to that.

Q You stated you were unable to determine if they had done that earlier?

A Right.

Q But it would appear that they didn't do so subsequent to your representation of Castle, did they?

A They did not.

Q If they didn't do it subsequent to your

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representation, the only time they could have done it was before your representation, is that correct?
A I would think so.
Q But if they did it before your representation, there'd be no need for your representation, would there?
A What representation? You mean representation of Castle Sewer?
Q That's correct.
A I'm not understanding your question. I'm sorry.
MR. COLE: Could I ask a clarifying background question, Mr. Brenner, just for our record here?
MR. BRENNER: Can we go off the record for a minute?
(Discussion off the record.)
MR. BRENNER: Can we go back on the record, please?
MR. COLE: Could you hear all of that, Mr. Shults?
THE WITNESS: I'm sorry, I heard none of

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it.
MR. COLE: I'm sorry, we didn't mean to exclude you.
THE WITNESS: That's all right. It was in the background and I did not hear you.
MR. COLE: The clarifying question that I wanted to ask, in light of Mr. Brenner's questions to you about the negotiations with representatives of Madison Guaranty and Madison Financial was your understanding at the time that you undertook your representation, which I believe you've testified was July 25, 1986, whether Mr. McDougal had recently been removed by Federal Regulators and therefore was unavailable to participate in discussions regarding this matter, if you have any knowledge?
THE WITNESS: I think that that is correct. I have never met Mr. McDougal and I've never talked with Mr. McDougal, so I believe that I was told that the people I should deal with were Sarah Hawkins and Steve Cuffman initially.
At some point as you know, from the correspondence, Jeff Stern, a lawyer from Washington,

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representing the Federal Savings & Loan Insurance Corporation because involved and thereafter I think my dealings were primarily with him.

MR. COLE: So essentially you were in the position of coming in and dealing with new management with regard to a matter that had been previously conducted by old management, that being Mr. McDougal?

THE WITNESS: I believe that's correct.

MR. COLE: I didn't mean to interrupt, Mr. Brenner. I just thought that would be helpful to put this in context.

MR. BRENNER: Thank you.

BY MR. BRENNER:

Q I wanted to get back to what is at the core of your representation of Castle Sewer and Water, that is, working out the agreement.

A All right.

Q You stated that nobody disputed that there were 110 hookups guaranteed each year for three years. Is that correct?

A Yes.

Q But you can't point to a signed contract

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between Madison Financial and Castle Sewer and Water on that issue, can you?

A I cannot.

Q And you stated that no such contract had been entered into with such a guarantee for 110 hookups after your representation began, correct?

A Yes.

Q My question, then, was if this was not a disputed issue for Madison, what was the whole purpose of your representation?

A Either to get the contract as outlined in my letter of July 30 rescinded or reformed. And on the second page of that letter, I think I set out options which I was seeking to have entered into.

Q But if there was a contractual agreement already in place, you wouldn't need reaffirmation or recision?

A Well, as I understand it and understood it at the time, there was an agreement. Whether or not it was signed in writing, I think that it was clearly understood between the parties and that agreement either signed in writing or orally was to be

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rescinded and the money that Castle Sewer and Water had paid to Madison would be refunded, and all of the property would be returned to Madison. That was one alternative.

Q When you say that was an agreement between the parties, you're referring to an agreement between the previous management, Jim McDougal, and Castle Sewer and Water, and not the management as of July 30, 1986?

A Yes.

Q And you stated that it was your understanding that this was an oral contract or you didn't know?

A I do not know. I had seen the written copy which we earlier referred to. But as you pointed out, it wasn't executed. But I believe it reflected, if there was not an executed agreement, I believe that it reflected what the parties had in fact agreed to.

Q At this preliminary stage, as you were preparing this letter, you mentioned recision on page two and that is Castle Sewer and Water will convey

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back to Madison the property. Madison will convey back to Castle Sewer -- and I believe it's a typo -- it says CS&L, the $150,000 downpayment and interest paid to date.

Do you see that?

A Yes.

Q Is that supposed to be a CS&W?

A It is.

Q The $150,000 downpayment, do you know where that money came from?

A I do not.

Q Did Mr. Tucker tell you where that money came from?

A I don't believe he did.

Q Have you subsequently come to learn that that money came from an SSBIC owned by David Hale, known as Capital Management?

A I've learned that within the past year in connection with publicity in our local newspaper relating to the indictment of Jim Guy Tucker. So that I now know that, but I did not at any time when we were dealing with this problem.

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Q So at no point in time did you see any correspondence between Jim Guy Tucker and David Hale about a loan request for Castle Sewer and Water Corporation?

A Yes. I saw such a document. I think it was given to me early on by Jim Guy Tucker. I don't know whether the loan was ever made or not. The purpose of him giving it to me was that there was a reference somewhere in that document about the obligation of Madison Financial Corporation to guarantee certain things in connection with the operation of Castle Sewer and Water. I saw that document. But frankly, I don't know whether, I did not know at the time whether that loan was made or not. I think that document was just sent to me with a check at the point where there was discussion about the obligations of Madison Financial Corporation.

MR. COLE: So if you have the document in front of you, Mr. Shults, are you referring to, on the first page of the document that's headed "Loan Application"?

THE WITNESS: Yes. At the bottom, there

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is something about company assets.

MR. COLE: Yes.

THE WITNESS: There's a checkmark by it which I guess was made by probably Mr. Tucker when he sent this over to me.

BY MR. BRENNER:

Q This says that in addition, MFC is contracted to guarantee $55,000 per year in hookup fees to Company for three years.

Is that correct?

A Yes, sir.

Q This loan was for $150,000, as you understood it initial commitment?

A It says, loan amount initial commitment $150,000. $300,000 if lender is able to do so.

Q At this point, were you able to make the determination that the initial commitment of $150,000 was probably the same $150,000 that was used as the downpayment?

A I was not, because I never followed through to even determine whether the loan was made or not. I had nothing to do with the loan and the

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purpose of this document getting to me did not have anything to do with the loan but had to do with some supporting evidence of what the terms of the agreement between Castle Sewer and Water and Madison Financial were.

MR. COLE: Just to be clear, Mr. Shults, was it your understanding that the document we've been referring to, which is a multi-page loan application that's attached to a February 14, 1986 letter to David Hale from Jim Guy Tucker, was a contemporaneous document with that letter?

That is, the document that was prepared on or about February 14, 1986?

THE WITNESS: That's what it appears to be.

MR. COLE: That's what it appears to be. I'm just checking if that was your understanding?

THE WITNESS: Yes, I think so.

MR. COLE: I don't believe the loan application itself is not dated. That's the only reason I asked that question.

THE WITNESS: I would assume that what you

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just said is correct.

BY MR. BRENNER:

Q Do you know if this loan was ever made?

A I do not.

Q So you know this to be an assertion by Jim Guy Tucker to a third party about an agreement he may have with Madison Financial Corporation?

A Yes. That's what it appears to be.

Q Did you ever have an opportunity to review a February 14, 1986 offer and acceptance which is the offer and acceptance of the purchase of Castle Sewer and Water -- I'm sorry, the offer and acceptance of the Sewer System which is not known as Castle Sewer and Water for $1,200,000?

A I don't believe I have seen that.

And, again, I have not gone through this file in detail in years. If it's in the file, I saw it. If it's not in the file, I'm sure I did not see it. I think everything that I have seen in connection with this letter is in the file which I have furnished to you.

Q Did you ever make a decision, as you were

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putting documents together to work out the negotiation, that you should acquire the underlying loan documents and purchase documents from February of 1986 in order to adequately prepare for the negotiations?

A No. Unless they're in this file, I don't think so.

I think after I had understood from Jim Guy Tucker and R.D. Randolph what the terms of the agreement were, and after I had stated those to Mr. Cuffman and Ms. Hawkins, and there was no dispute about that, I didn't see any need to pursue that question further.

Q There was no dispute about the underlying figures, the million fifty thousand owed on the original note? I mean, when you say there's no dispute, I want to know what you're referring to.

A I'm referring to the summation of the agreement as I understood it in my letter to the Board of Directors of Madison Guaranty Savings & Loan.

Q That is the agreement that you attached to

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your July 30th letter?

A Yes.

Q The unsigned agreement?

A Yes.

Q And you say nobody objected to the terms of that agreement, is that correct?

A Yes.

Q But that agreement --

I've already asked that question.

Not only was this agreement never signed, no similar agreement was ever signed which included the hook ups, was there?

A I'm not aware of any.

Q So while you say nobody disputed the fact that there was a requirement for the hookups, somebody decided that that was a contract that Madison was not comfortable entering into.

Is that correct?

A I believe you'll have to state that again. I don't understand it.

MR. BRENNER: Could you read back the question?

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(Readback.)
THE WITNESS: I don't believe so.
I think the agreement -- my understanding was that Madison had in fact agreed to all of the matters I set out in my letter of 5/30/86.
BY MR. BRENNER:
Q Then I'll ask you the question, why was the agreement never signed?
A That I do not know.
Q Certainly you're not saying Castle Sewer and Water would not agree to the agreement that they furnished?
A I think that they were prepared to -- thought that they had already entered into the agreement and that if Madison would perform, Castle Sewer and Water would perform.
Q But Madison didn't want to perform, did they?
A I think the point was that they couldn't or didn't.
Q Which means that they disputed some of the portions of the agreement?

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A Not necessarily. It means that the breached the agreement.
Q Then why wasn't there a suit instituted for breach of contractual relationship?
A That's what this whole, my whole involvement was. Either to bring such a suit or to work out a settlement.
And if you will look through that file, you can see that we had lengthy negotiations with Mr. Jeff Stern in working out a reaffirmation of the agreement.
MR. COLE: Mr. Stern was a new counsel that was brought in to represent Madison Guaranty when the new management that was reporting I think to the Federal Savings & Loan Insurance Corporation came in?
THE WITNESS: That's correct.
(Pause.)
BY MR. BRENNER:
Q At some point, did you become aware that there had been some representation of Madison by the Rose Law Firm on certain sewer and water issues?

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A No. The Rose Law Firm never figured into anything that I was involved in in this matter.
Q Did Mr. Tucker ever discuss with you a special Board meeting of Madison Guaranty held at his law firm on July 15, 1986?
A I don't think so.
Q Did he ever mention to you, explain to members of the Madison Board that the failure of Madison to register the sewer and water system was under Arkansas law not a problem?
A I'm not aware of that.
Q Did you ever see any documents that discussed the July 15, 1986 special board meeting?
A I don't believe so.
Q Did Mr. Tucker ever discuss with you an intra-office conference on Tuesday July 8, 1986 with Mr. John Selig, Mr. Speed and Mr. Latham?
A No.
Q And you haven't seen any documents related to that?
A I have not.
Q Did Mr. Tucker ever discuss with you

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concerns he had about potential conflicts of interest between -- because of his representation of Madison and his involvement with Madison financially?
A No.
Q In going through the documents, were you ever concerned about the relationship, or did you ever mention to Mr. Tucker any concerns about the relationship between Mitchell, Williams, Selig, Jackson & Tucker and Madison?
A I don't believe I was aware of what that relationship was.
Q I have a letter, which is a partial draft, dated September 30, 1986, to Sarah Hawkins from the Mitchell Williams Law Firm. And one of the things that's outlined in this letter is the Castle Sewer and Water agreement. I don't know that you have a copy of it.
A Was it in my file?
Q I don't believe so.
A If not, I do not have a copy of it. As I said before, everything that is in my file you now have. You are probably much more familiar with it

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than I am at this point.
Q Well, this particular portion is two paragraphs, and I'm going to read it.
A Okay.
Q It says: Castle Sewer and Water Corporation is a corporation owned in part by a partner in our law firm, Mr. Jim Guy Tucker. CSW acquired the sewer and water assets it owns from MFC in February 1986.
At or about the time of the acquisition of the sewer and water assets, McDougal and Mr. Tucker negotiated the terms of an agreement to be entered into by CSW and MFC whereby CSW would supply sewer and water service to MFC's Castle Grande Development.
The terms of the agreement were not put into written form by the parties at that time. By letter dated July 29, 1986, Mr. Tucker sent a copy of a proposed final written agreement between MFC and CSW to Ms. Hawkins.
It says see Exhibit 3 to this letter. That's a letter, as I understand it, that you have.
A The one that we've earlier referred to?

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Q Yes.
Back to the letter.
It is our opinion that MFC and CSW never entered into a final legally binding agreement and the agreement proposed by Mr. Tucker on July 29, 1986 is not a legally binding commitment of MFC.
A I've never seen that.
Q Has anyone ever mentioned it to you?
A No.
Q Do you know if Mr. Tucker's ever seen this?
A I do not.
Q Do you know if Mr. Tucker has ever supplied information to his partners about the Castle Sewer and Water agreement?
A I do not.
Q Do you disagree with the second paragraph of this letter written by Mitchell Williams, Selig Jackson and Tucker.
A Where it says that there was no agreement entered into?
Q Yes.

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A Yes, I disagree with what my conclusion was, based on the information which I had, and the response of the representatives of Madison Financial when I wrote them on July 30, 1986 regarding the agreement.

Q What documents did you have to support your conclusion?

A I think it was the draft of the agreement, the unsigned agreement that I referred to, and representations of what Madison Financial had agreed to in connection with the sale of its sewer and water system.

Q Those were the assertions of Mr. Tucker?

A Mr. Tucker, and I believe Mr. Randolph as well.

Q When did you first have discussions with Mr. Randolph?

A I'm not sure. I would say not very long after I first opened my file on July 25, 1986. I think some time shortly after that, it seems to me. I may have had a meeting with Mr. Randolph and Mr. Cuffman here in my office at some point.

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Q Would that have been a meeting on October 28, 1986, which you memorialized in a writing on October 29, 1986 letter to Jim Guy Tucker?

A I think I met perhaps earlier than that, at least with Mr. Randolph, I know I did. And I think I met also earlier with Cuffman. Whether it was with both Mr. Randolph and Mr. Cuffman, I'm not sure.

Q Can you think of any reason why Mitchell Williams, Selig Jackson and Tucker would write a letter to Madison Guaranty that the agreement that you mentioned, and that was included in the July 30th letter that you wrote, would not be a legally binding agreement?

A I do not know what went into the decision to write that letter because I was not familiar with it. And I think I am just now for the first time hearing about it.

(Pause.)

MR. BRENNER: Can we go off the record? I'd like to take a five-minute break if I could. I apologize.

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(Recess.)
MR. GICALE: Mr. Shults, we're going to go back on the record.
BY MR. BRENNER:
Q Mr. Shults, I want to turn your attention to some handwritten notes. I believe they're your handwritten notes dated 10/28/86.
A I'm looking.
(Pause.)
Yes, I have them.
Q Could you read them for me?
A It says at the top, and the bottom, I'm talking to a file here I left open 10/28/86. Call from Jim Guy Tucker. He will be in court tomorrow. R.D. Randolph will come to meeting with Steve Cuffman.
Shall I continue?
Q It that a meeting you were having the next day with Steve Cuffman?
A Yes.
Q Was that a meeting to work out the agreement that you had sent to them two months prior?

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A I think we were working on a new agreement at that point.
Q A new agreement because they wouldn't agree to the tie-ins?
A No, they had previously agreed to the tie-ins, as I've indicated to you earlier, but they could not perform. And I think the whole purpose of Madison, of these negotiations, was to avoid having to take back the sewer and water system and to have Castle Sewer and Water agree to operate it.
And what we were looking at was what kind of an agreement could be entered into which would leave Castle Sewer and Water viable so that it could operate the system, and then determine how much debt it could pay to Madison.
Q I appreciate that.
I'd like to turn to number 4, which is in the notes you have circled.
Could you actually read the whole note?
A You want me to read the whole note?
Q After "Steve Cuffman," yes, sir.
A Proposed settlement with Madison Guaranty

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1. Madison has asset on books greatly over-valued. Redo purchase agreement. Set price at $500,000 rather than stated purchase price. This should be approved as reasonable value.

2. Castle Sewer and Water will forgive payment from Madison now and in the future, $30,000 owed now.

3. No payment from Castle Sewer and Water except on note to Madison.

4. Utility is not registered. Purchaser will get it registered as public utility by June 1987.

5. If property sold during this time on notice by Castle Sewer and Water in the future, Madison will get 50 percent of the proceeds of $500,000, the proceeds being the sales price as debt to Madison, return of $150,000 from Castle Sewer and Water and payment of all outstanding debts against the system.

And there are notes on the side as well.

Do you want me to read those?

Q Yes, please.

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A On the side up there opposite number 1, it says less $100,000 note at $400,000.

Down below that, should Castle Grande be reopened, any water lines to serve would be at Madison's expense. No hook up charge after accepted by Castle, they maintain.

Down at the bottom it says, conference 10/29/86, Steve Cuffman, R.D. Randolph, 2124 first commercial.

Q Next to the number 5, there's a two-line note that looks like it has an arrow.

Could you read that as well?

A Yes. I read that earlier.

That's an insert apparently into the sentence after number 5, so that that sentence reads, if property is sold, then at that point, the two-line, what you're referring to, would be inserted.

Q This is the proposed settlement Mr. Tucker wanted?

A I believe that's correct.

Q Because this is based on your phone conversation with Mr. Tucker?

A It must be.
Q Under number 4, you have utilities not registered. Purchaser will get it registered as public utility by June 1987.
Is that correct?
A Yes.
Q What is that a reference to?
A I am not fully aware of what that refers to. It's a utility regulation I'm sure. I'm not familiar with utility regulations, but I believe that the question was, did Castle Sewer and Water have to register the utility, the system as a public utility, and apparently it had not been previously registered as such by Madison.
Q This appears from the correspondence we have to be the first time that this is mentioned as an issue.
Is that correct?
A I think that's probably correct.
Q How did this become an issue?
A I do not know. It may be that Mr. Tucker realized that it wasn't registered and that that was

something that had to be attended to.
Q Did he discuss this with you prior to 10/28/1986?
A If he did, I don't recall it. I don't think that we ever had much discussion about the need to register it until we'd all negotiated the agreement and then realized that an essential part of the agreement was going to have to be the registration of the utility or some legislation which would make that registration not necessary.
Q By 10/28/86 had you primarily negotiated the agreement?
A I don't think so. No. I think that went on for a number of months.
Q So this was an issue mentioned.
A It seems to me the agreement wasn't entered into until some time in '87.
Q I agree with you.
But you had just made a statement that this didn't become an issue until after the contract had been primarily negotiated.
A I think that's correct.

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Q But it appears that it's an issue as far as Mr. Tucker is concerned as early as 10/28/1986?
A I think that it says that it is not registered and the purchaser, which I assume would be Castle Sewer and Water, would get it registered as a public utility by June 1987.
Q But I'm asking you, did this become an issue as of 10/28/1986, or did it only become an issue much further down the road?
A It was not an issue that I paid any attention to until further down the road and then I really didn't pay any attention to it then except to know that it was something that had to be addressed before the parties would consummate the agreement, the new agreement.
Q Do you know why it was an issue?
A It seems to me that when it finally came up and they were trying to determine how much it would cost to operate Castle Sewer and Water and thereby determine how much it could pay to Madison, one of the factors that entered into how much it would cost to operate the utility depended on how

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much cost would be involved in the regulation.
That was my understanding of the problem. And at some point, the agreement, the new agreement was essentially worked out, subject to some legislation being passed which would either relieve the Castle Sewer and Water of certain requirements or in some way reduce the costs of complying with them. But I do not know anything about that. I was not knowledgeable about utility matters and left that to Mr. Tucker and someone from Madison to try and work it out.
Q Do you know who was negotiating that?
A I don't know for sure, but I expect Mr. Tucker and perhaps Mr. Randolph, and Mr. Cuffman perhaps for Madison. But I know it was going on with that aspect of it. I was not involved in it.
Q Was Mr. Tucker represented by someone else for that aspect, or was Mr. Tucker representing himself?
A I can't answer that, I don't know. But I was not representing him in connection with either registration or legislation affecting registration.

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Q On this note next to number 1 --
MR. COLE: Before we leave that subject, just to perhaps save time later on having to come back to this and recover all of this ground, when my turn to question comes, do you have any reason to believe, Mr. Shults, that the Rose Law Firm was representing Mr. Tucker with respect to that issue, that being the legislation issue?
THE WITNESS: I do not. I never heard the Rose Law Firm or anyone in it ever mentioned at any time when I was involved in this matter.
MR. COLE: So Mr. Tucker never indicated to you that the Rose Law Firm was doing legal work for Castle Sewer and Water on that issue?
THE WITNESS: No, he did not.
MR. COLE: Thank you.
As I said, I didn't meant to interrupt, but sometimes it's more efficient to ask those questions when they are pertinent, rather than to try to come back and start over again later on.
BY MR. BRENNER:
Q Getting back to the note on October 28,

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the note seems to reflect that a price of $500,000. Is that the price Mr. Tucker was willing to pay?
A Apparently so.
(Pause.)
Q I want to turn your attention to a November 12th, 1986 letter written by you to Steve Cuffman.
A Hold on just a minute.
Q No problem.
(Pause.)
A I have it.
Q Under A is recision. It says Castle will convey the property back to Madison. Madison will convey back to Castle the $150,000 downpayment with interest to date, and cancel the purchase contract and the two promissory notes executed by Castle. One in the amount of $100,000 and one in the amount of $950,000.
Is that correct?
A Yes.
Q Or, and you're proposing a new contract?
A Yes.

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Q The purchase price will be reduced to $500,000 and Madison will retain $150,000 downpayment an Castle will give Madison its promissory note in the amount of $350,000 bearing interest at the rate of ten percent per annum payable over a period of 15 years.

Is that correct?

A Yes.

Q So it would appear, from your previous notes, that Mr. Tucker wasn't fully aware of his own financial transactions in this case. Is that correct?

A Repeat that again?

Q In other words, in the previous note, it mentioned $100,000 down with $400,000 remaining. And in this note, it mentions $150,000 down with $350,000 remaining.

A Well, you're referring to my notes of October 28, 1986. It's possible that I got those wrong because if you will look at number 5, it talks about the return of $150,000 to Castle Sewer and Water.

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Q Yes, sir.

A I think you're probably, either you or I, one, are misconstruing what those 100,000 and 400,000 dollar figures are.

Q Do you know what those figures are?

A No.

MR. COLE: There's nothing like looking at ten-year-old notes, is there, Mr. Shults?

THE WITNESS: That's true.

BY MR. BRENNER:

Q Mr. Shults, I want to turn your attention to a November 26, 1986 letter.

A To whom is it written?

Q It's written to Steven Cuffman from Jim Guy Tucker.

A I see it.

Q It starts with: Dear Steve, enclosed are several pieces of correspondence dealing with coverage on the sewer and water property.

Is that correct?

A Yes.

Q In the third full paragraph, starting with

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"thus," the fourth line up from the bottom of the paragraph, could you read that two sentences, please?
A Yes.
Q Could you read those please?
A Thus I believe legislation will be essential to resolve the risk associated with what presently constitutes a "lawful" rate for system customers. To pass that legislation in this session will require immediate attention.
Shall I read the last sentence?
Q No, that's not necessary. I'm looking at the document and trying to determine how you received a copy of this document.
A Well, I don't know.
MR. COLE: Is it possible your client gave it to you?
THE WITNESS: That seems probable.
BY MR. BRENNER:
Q I was actually curious because I didn't see a cc as I've seen on many letters.
(Discussion off the record.)
MR. BRENNER: We'd like to go back on the

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record.
THE WITNESS: All right.
BY MR. BRENNER:
Q Is this the first time that there was any documentation conveying to Madison the importance of the legislation?
A I do not know, you know, what may have been conveyed from Mr. Tucker to Mr. Cuffman or others earlier than this. This is the first time I saw it except for the notation on the October 28, my handwritten notes.
Q On the meeting on October 29, did you mention to Mr. Cuffman the importance of legislation, or at that time, had you made a determination that you were just going to register the sewer company?
A Based on the notes, it looks like Castle Sewer and Water was going to agree to get it registered by June of '87.
Q So, just to be clear, as of October 29, 1986, it wasn't important, but as of November 26, 1986, it was important.
Is that correct?

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A What was important or what was not important?
Q Having some sort of legislation passed related to the sewer and water company.
MR. COLE: Isn't it hard for Mr. Shults to answer that since he only knows what his client, presumably knows what his client or others told him?
Your question I think is broader than that.
He can certainly answer about what he knew but I don't think he can answer beyond his own personal knowledge.
BY MR. BRENNER:
Q We're always asking in terms of what you knew or what you believed.
A Excuse me?
Q We're asking in terms of what you knew or what you believed to be the case.
A All I know is to refer to my notes on October 28. It looks like at that time, Castle Sewer and Water was contemplating getting the utility registered. Then it looks like by November, a month

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later, the question had arisen about the cost associated with the registration. And I gather that that's when Mr. Tucker wrote this letter to Mr. Cuffman.
But I expect you can reach a conclusion from that just as well as I could.
Q When did you first discuss, or have correspondence, or come to realize that the whole formation of a new contract was dependent on the passage of legislation?
A I suppose somewhere along in there.
Q Did Mr. Tucker discuss it with you before he sent this letter?
A No, I don't believe he did.
Q So you only knew the importance based on communications your client had with Mr. Cuffman to begin with?
A I think that was probably the first indication I had that there was going to have to be some legislation involved.
Q Well, we're moving forward and I'm going to turn your attention to a January 23rd, 1987 letter

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addressed to you from Ingersoll & Block by Jeffrey B. Stern.
A Yes.
Q Dear Robert, pursuant to our meeting in your office on January 15, 1987 -- is that the letter?
A Yes, sir.
Q With Jim Guy Tucker and Mr. Randolph, the following course of action is the way in which I believe we should proceed to work out the existing loan relationship between Castle and Madison Guaranty.
Do you recall meeting on January 15 in your office in 1987 with Jim Guy Tucker, R.D. Randolph and Jeffrey Stern?
A I'm sure that I did have such a meeting. But I don't physically recall it. I don't know whether I met with Mr. Stern more than once in my office or not. But I certainly did on at least one occasion, and I think maybe more than one.
Q I'd like to move forward under number one, proposed workout terms.

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A Yes.
Q Could you read the first sentence to me, please?
A We cannot and do not purport to address in this letter the representations allegedly made to your client by Jim McDougal concerning a potential development of Castle Grande and a minimum number of annual hook-ups.
Shall I continue?
Q No, that's fine. Thank you.
Earlier you'd made the statement that Madison Financial or Madison Guaranty, rather, had never objected to your assertions about the number of hookups.
A Correct.
Q And in fact had accepted that as true?
A Yes.
Q In reading this sentence, does this refresh your recollection that in fact maybe Madison Guaranty didn't agree with the assertion you were making?
A I think when Mr. Stern got into the

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picture for negotiation purposes, he took that position.

Q So in fact Madison Guaranty wasn't agreeing with you that there was a contract for annual hookups?

A Well, you're misconstruing what I said, Mr. Brenner. I had said earlier that in our negotiations beginning back in June or July of '86, the people at Madison always acknowledged that obligation.

When Mr. Stern got in the picture -- you've probably been involved in negotiations before -- he took the position that well, we're not conceding that there is any such obligation at all.

I took the position that had been previously recognized by Madison and certainly there was. That was two opposite positions taken by two lawyers trying to negotiate an agreement for their clients.

MR. COLE: The letter speaks for itself but it seems to me that Mr. Stern is specifically trying to avoid getting bogged down in that issue in

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this letter. In fact, I think we might profitably take the same course of action in this deposition, but I leave that to Mr. Brenner.

Majority counsel is consulting, Mr. Shults.

THE WITNESS: Excuse me?

MR. COLE: I just wanted to let you know that majority counsel is consulting. That's why there's the dead time.

MR. GICALE: It's not the equipment. It is the equipment, but it's a different type.

(Laughter.)

BY MR. BRENNER:

Q On the second page of that letter, under number 2?

A Yes.

Q Legislative initiative.

It says, in our meeting, Mr. Tucker raised a question of the rates being charged by Castle Sewer and Water. Mr. Tucker talked of an attempt to introduce and pass, during this legislative session, appropriate legislation which would exempt water and

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sewer systems or districts from the rate regulation as long as the rates being charged were not in excess of the rates charged by the City of Little Rock.

Madison agrees that such legislative initiative must be taken during the current session of the legislature and agrees to support Mr. Tucker in his attempt to pass the legislation.

Madison further agrees that such initiative must be taken immediately if there's to be any possibility of passing a law during the current session.

Do you recall a discussion during your meeting with Mr. Stern, Mr. Randolph and Mr. Tucker about the legislative initiative?

A As set forth in Mr. Stern's letter, yes.

Q At this point, had it been decided by Mr. Tucker, you and Mr. Stern, that the future contractual relationship between Madison and Castle Sewer and Water hinged on the passage of this legislation?

A Yes. There would have been, that is, the consummation of the agreement which we were striving

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to work out with Mr. Stern in the form that we were then addressing it was contingent on this legislation. I guess if the legislation hadn't been passed, there could have been further negotiations to perhaps reach a different form of agreement, but one in which we were, or the approach that we were using was contingent on the passage of the legislation.

Q Now this legislation was specifically designed to address the needs of Castle Sewer and Water to avoid oversight by the Public Service Commission, is that correct?

A I cannot intelligently tell you what the legislation did. I never paid any attention to it. And as I told you earlier, I didn't know anything about and don't know anything about utility regulations.

Q Did you have a general understanding of what this legislation would be designed to do?

A Yes. And I think it's as you said, it was going to allow Madison to charge rates.

Q When you say Madison, do you mean Castle Sewer and Water?

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A It would allow Castle Sewer and Water to charge rates which would be not tied into the normal rate procedures.
Q There's no mention in this letter of the failure of Castle Sewer and Water to register, is there?
A There is not.
Q Was that an important issue at the January 15, 1987 meeting, the registration?
A I think by that time frankly I don't know. Even the legislation may still have contemplated registration. I'm not sure about that.
Q But it's not memorialized in that letter that the registration issue was vital?
A There's no reference to it.
Q Can we assume from that that it wasn't a major issue at the meeting?
A I don't think so.
Q You don't think we can assume from that that it wasn't a major issue?
A I don't think we can assume one way or the other, because I do not know. After the passage of

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the legislation, registration was still required. I don't know.
Q But you do know it's not memorialized in the letter?
A I do.
Q I'd like to turn your attention to a February 13, 1987 letter that you wrote to Jeffrey Stern, and in it is an enclosure.
A I'm looking.
(Pause.)
A What's the date again, please?
Q February 13, 1987.
A Yes, I see it. I see that letter.
Q It starts: Thank you for your letter of January 23, 1987 on behalf of Madison Guaranty.
A Right.
Q Under number 1, proposed legislation?
A Right.
Q It says: In accordance with paragraph 2 of your letter, Castle Sewer and Water Corporation has prepared the enclosed draft of the proposed legislation.

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A Yes.
Q Who prepared the proposed draft?
A I assume Mr. Tucker or Mr. Randolph or someone on their behalf. I did not.
Q Did you ask Mr. Tucker to prepare it?
A I did not.
Q Did Mr. Tucker instruct you that he was going to prepare it?
A Yes, or have it prepared.
Q Did he who he was going to have prepare it?
A I don't believe he did.
Q Did he ask you to do a search on the Arkansas statutes regarding --
A He did not. All of those references to the statutes were given to me, I assume, by Mr. Tucker.
MR. COLE: I'm not sure this is in the record of this deposition. Mr. Tucker was a practicing attorney at the time.
Is that correct?
THE WITNESS: That's correct.

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MR. COLE: And he worked at a fairly large law firm by Little Rock standards at that time?
THE WITNESS: Yes.
MR. COLE: Thank you.
BY MR. BRENNER:
Q Do you know of Mr. Tucker consulted the Rose Law Firm about this legislation or about the issues of registration?
A I do not. Although, as I've said before, that name never came up at any time in my dealings with this matter.
Q Well, did you discuss with Mr. Tucker the need to register Castle Sewer and Water?
A I did not. I don't know and did not know whether it did need to be registered.
Q But Mr. Tucker mentioned to you in the October 28th discussion that's memorialized in your handwritten notes, that he would agree to register Castle Sewer and Water by June of 1987?
A Yes.
Q Did you discuss this with Mr. Tucker?
A I don't believe I did.

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Q Did Mr. Tucker just lay out to you the five parts of the agreement that he'd be willing to accept?
A I expect that's the way I got that information.
Q And you didn't do any follow-up to prepare for your meeting the following day?
A I don't think so. Mr. Randolph was here at that meeting and I think he spoke for Castle Sewer and Water at that meeting.
Q Was Mr. Randolph familiar with the terms as laid out in your October 28th memo or note?
A I assume that he was since he was at the meeting and I think I conveyed to Mr. Cuffman at that meeting what those terms, proposed terms were. And Mr. Randolph was at that meeting.
Q You laid out the five terms that Mr. Tucker had mentioned to you earlier?
A I'm sure that I did.
Q And you didn't seek, from him, any further information to prepare for that meeting on the 29th?
A I don't believe so.

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Q Were you involved in any discussion of a plan to get this legislation passed that you had forwarded to Mr. Stern?
A I was not.
Q So you received the information from Mr. Tucker, you wrote the first sentence of the letter, and then took all the information that Mr. Tucker had provided to you and forwarded that, or did you actually look at the proposed legislation and the statutes?
A I don't think I ever looked at the statutes, and I certainly did not look, with any effort to understand, the proposed legislation.
Q I'd like to turn your attention to paragraph 2 under Proposed Legislation.
A All right.
Q Do you see that?
Could you read that into the record for me, please?
A This legislation would seek to deal with the very substantial problems faced by Castle Sewer and Water and Madison, as a result with the failure

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of the various owners of this utility property to ever register with or comply with the statutes and regulations affecting public utilities in Arkansas.

Q Do you know who the various owners of the utility property were?

A I suppose it was Madison and then Castle Sewer and Water.

Q Do you know who it was before it was Madison?

A I do not.

Q And you knew that before Castle Sewer and Water obviously it was Madison?

A Yes.

Q Do you know who represented Madison?

A At what point?

Q During the latter half of 1985 and the first half of 1986?

A I do not.

Q Were you familiar with the fact, or have you heard that in fact the Rose Law Firm did a portion of Madison's work during that time period?

MR. COLE: I think here it's very

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important and I'm sure Mr. Shults would do this in any event, to try to separate out what he actually knew at the time from what he may have since read in newspapers in view of the considerable amount of publicity that this matter has had in the Arkansas newspapers, which I'm sure you would do in any event, Mr. Shults. But I think that's worth noting.

THE WITNESS: At the time of my representation of Castle Sewer and Water, I did not know that Rose Law Firm had ever been involved with Madison.

BY MR. BRENNER:

Q Do you know who represented Madison Financial on the sale to Castle Sewer and Water?

A I do not.

Q Do you know who represented either the IDC or Madison Financial or Madison Guaranty on anything related to the sewer and water property?

A What is the IDC?

Q Industrial Development Corporation.

A No, I do not know.

MR. COLE: Do you know whether Mr.

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Tucker's firm, the Mitchell Williams firm, did legal work for Madison Guaranty, Mr. Shults, at the time that we're discussing, 1985-1986?

A I did not know that.

BY MR. BRENNER:

Q Do you know Seth Ward?

A I do.

Q How do you know Mr. Ward?

A Well, I don't really know him personally. But one of my partners represented him in a lawsuit or the appeal of a lawsuit with Madison Guaranty.

Q And who was that?

A The lawyer?

Q Yes, sir?

A Tom Ray, R-A-Y.

Q Have you been involved with any public utility issues prior to being involved with Castle Sewer and Water?

A No.

Q Subsequent to being involved with Castle Sewer and Water?

A No.

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(Pause.)

Q Do you know who owned the sewer and water system prior to Madison Financial Corporation?

A I do not.

Q We're still at that February 13, 1987 letter that you wrote.

A Yes.

Q Prior to this letter, what discussions did you have with anybody about the potential legislation and the need to have that legislation, other than the ones already mentioned?

A I don't think I had any. Apparently at the meeting with Mr. Stern, that we referred to earlier, the legislation was discussed, and Mr. Tucker or someone undertook to get it passed.

Q Well, did Mr. Tucker discuss his plan with you at all?

A He did not, except to say that he was going to try, along with Madison, to get the legislation passed.

Q So you were the lawyer representing him on the contract work out?

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A That's true.
Q But he didn't discuss with you any plan of action or he didn't discuss with you in any way, other than what we've already discussed, a plan of attack for the legislative action?
A He did not. I saw a copy of a letter which I believe he wrote to the Governor, trying to get support for the legislation, but other than that, I was not in any way involved and didn't know about it, except that it was understood that he was going to keep me and Jeff Stern advised on whether or not they were able to get it passed.
Q Did he ever discuss with you who the potential sponsors of the legislation might be?
A He did not.
Q Have you ever heard the name William Walker?
A Yes.
Q Who is William Walker?
A He is a representative from Pulaski County, or was at the time, I believe.
Q How do you know Mr. Walker?

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A I don't know him.
Q How do you know the name?
A Well, it's in the paper from time to time. I know the names of most of our representatives from Pulaski County.
Q Did you know Mr. Walker as one of the sponsors of the proposed legislation?
A Not until I saw a copy of the letter that Jim Guy Tucker wrote to Governor Clinton on April 24, 1987.
Q As part of the attachments to the letter, there's Public Utilities 73-201.
MR. COLE: Are we still talking about the February 13, 1987 letter?
MR. BRENNER: Yes, I'm sorry. The February 13, 1987 letter.
THE WITNESS: What about it?
BY MR. BRENNER:
Q I'd like you to turn to the first page of Public Utilities. It's page 38-73201. It's on the upper left hand corner.
A Hold on, I'm trying to get to that.

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Q No problem.
A Where is it in relation to the attachment?
Q I believe it is one of the attachments.
A Okay. And what am I looking for?
Q 73-201, page 38.
A Yes, I see that.
Q On your copy, are there lines under certain words?
A Yes.
Q Who made those notations?
A I do not know. I did not.
Q They are on your copy so they're notations received maybe before you received copies?
A Yes.
Q These were forwarded to you by Mr. Tucker?
A I'm sure they were.
(Pause.)
Q Do you know who Mike Wilson is?
A He is a lawyer and also, at that time, was a member of the House of Representatives here in Arkansas from Pulaski County.
Q Did you have any discussions with Mr.

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Tucker about Mr. Wilson?
A I did not.
Q Did you have any discussions with Mr. Wilson?
A I did not.
Q Did you know Mr. Wilson was one of the sponsors of the legislation?
A Only from the copy of the letter of April 24, 1987, which I previously referred to.
Q I have a memorandum dated February 24, 1987 to Mike Wilson from JGT. I assume that's Jim Guy Tucker. And you are cc'd on it.
A I'm looking to see.
Q It's a two-page memo and it's got a six-page attachment, which appears to be the proposed legislation.
A And what's the date of it?
Q February 24, 1987.
A Do you know whether that's in my file or not?
Q I believe it is. You were cc'd on the letter.

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A Okay.
(Pause.)
Sorry, it's not in that sequence.
Q No problem. We'll take a minute.
(Pause.)
A It's a memo from whom to whom?
Q It's a memo from Jim Guy Tucker to Mike Wilson.
MR. BRENNER: Go off the record.
(Discussion off the record.)
THE WITNESS: I have found it. It's dated February 24, '87. Is the one you're referring to dated February 24, 1987?
BY MR. BRENNER:
Q Yes, it is.
A I have found it.
Q The first sentence reads:
Attached is a proposed bill designed to take care of the problem of both Madison Guaranty Savings & Loan and Castle Sewer and Water Corporation.
A Yes.

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Q The bill attempts to deal only with the CS&W sewer and water system by being limited to private companies within ten miles of a city with a population in excess of 140,000.
Is that correct?
A Yes.
Q Why did you receive a copy of this memo?
A I suppose he was trying to keep me apprised of the fact that they were trying to get the legislation passed.
Q Did you ever discuss this memo with anyone?
A I did not. I may have reported it to Jeff Stern at some point that Mr. Tucker was proceeding to try to get the legislation passed. But other than that, I wouldn't have done anything with regard to it.
Q You never discussed this with Mr. Tucker?
A I did not.
As far as my participation, I was assuming that Castle Sewer and Water and Madison were taking care of the legislation, and Mr. Stern and I were

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standing by to see if it was going to be passed, and if so, we could proceed.

But I don't think Mr. Stern, nor I -- I know I didn't, and I don't think he really had anything to do with the legislation. Some people from Madison may well have. I don't know. But I was not concerning myself with it one way or another.

Q Do you have any idea who did the legal work on this memorandum?

A I do not.

Q Mr. Tucker never mentioned to you, even in passing, that he had one of his associates working on this?

A No.

Q Did you ever have any conversations with Mr. Tucker asking him how it was going?

A I did not.

Q Did he ever call you and report to you as to how it was going?

A Only when it was finally passed, I believe.

Q So he wasn't keeping you updated on a more

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regular basis with the exception of what we have in front of us by way of memos and letters?

A He was not. Mr. Tucker, I'm sure, knew that I do not get involved in lobbying or legislative matters.

Q There's a March 25th, 1987 Ingersoll & Block letter addressed to you.

A Okay.

(Pause.)

(Discussion off the record.)

MR. COLE: Why don't we ask Mr. Brenner to read the portion he's interested in to you, and if that presents a problem, you can continue looking?

BY MR. BRENNER:

Q It's a three-page letter from Ingersoll & Block on Jeffrey Stern's signature.

On the second page, at the bottom, number 6, in terms of the proposal, it says, legislation, all of the terms of this proposal are contingent on the successful passage and signing by the Governor of the utilities legislation with which Jim Guy Tucker is involved.

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A I think that's accurate.
Q At this point, they proposed a purchase price modification of $675,000, giving Castle credit for the $150,000 downpayment, and leaving a principal balance --
A Hold on just a minute. What's the date of that letter?
Q March 25, 1987.
A Yes, I found it.
Q Number 1 on the purchase price modification.
A Okay.
Q Castle's mortgage, this would leave a principal balance on Castle's mortgage of $525,000. Payments of interest only to be made over ten years with principal balance due at maturity.
Is that the correct letter?
A Yes. It's on a different color from Ingersoll & Block's usual stationery. That's why I had so much trouble.
Q So by this point in the negotiations, everything hinged on the passage of the legislation.

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Is that correct, the entire deal?
A The entire deal as negotiated at that point, as I've indicated earlier.
There was never any discussion about it, but I'm assuming that if the legislation did not pass, that we would go back to trying to negotiate a suitable deal without the legislation.
Q But it went back to the drawing board?
A Right.
Q Now I'd like to refer you to an April 9th, 1987 Ingersoll & Block letter.
A All right. I hope it's on the right color paper.
(Pause.)
(Discussion off the record.)
MR. BRENNER: Back on the record.
BY MR. BRENNER:
Q It's Ingersoll & Block Federal Express to you and it says:
Dear Mr. Shults, in keeping with our agreed-upon time table for consummating a work out agreement on the above-referenced loan, enclosed for

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your review is a revised copy of the proposed agreement which we received from you on April 9, 1987.

A Okay.

Q Our revisions to the proposed agreement are primarily points of clarification and correction. Our revisions have been underlined for your easier reference.

Although I believe the enclosed agreement adequately represents the positions of the parties, they remain subject to the review and approval by Jeffrey Stern, the Board of Directors of Madison Guaranty and the Federal Home Loan Bank Board of Dallas.

A Who signed that letter?

Q I'm not quite finished.

In addition, I understand that the Governor has vetoed House Bill 1780 which was a critical element of the proposed agreement. Susan Holmes has informed me that you are looking into the legal aspects of having the veto reversed or having the legislation reintroduced in an emergency session,

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which is due to commence in a few weeks.

We would appreciate being kept apprised of the progress in this matter.

Gratefully yours, Katherine A. Shepherd.

A Okay. I did not have, what did it say I was going to do?

Q It says that Susan Holmes, do you know who Susan Holmes is?

A No. Who is she?

Q That's what we're trying to find out.

A No, I'm sorry, that doesn't ring a bell.

Q Susan Holmes has informed me that you are looking into the legal aspects of having the veto reversed or having the legislation reintroduced in an emergency session which is due to commence in a few weeks.

A I found that letter, by the way, right now.

Q If you can read the last paragraph?

A I don't know who Susan Holmes is, and if so, that information is not correct. I wasn't looking into that at all.

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Q Did you receive this letter?
A I did.
Q Did you read it in or around April 9, 1987?
A Yes, I read it.
Q At that point, did you object in any way to the comment made in the last paragraph?
A No, I'm sure I didn't. I think I passed it on to Mr. Tucker, and assumed that he was doing what she had referred to. I'm not sure who she is. And I, as I told you before, had nothing to do with the legislation. And I certainly wasn't looking into any legal aspects of having the veto reversed.
Q Is this April 9, 1987 the first time you learned about the veto?
A Must have been.
Q Mr. Tucker might have contacted you. Do you recall Mr. Tucker contacting you prior to your receiving this letter on April 10th?
A I don't recall any such thing.
Q You don't recall anyone getting in touch with you, Mr. Randolph perhaps?

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A They probably did and probably said the legislation's been vetoed and I expect I informed Mr. Stern of that.
Q After learning of the veto, did Mr. Tucker tell you there was some sort of plan, or did anybody else tell you that there was some sort of plan to either reverse the veto or introduce a new bill in special session?
A At some point, I received copies of letters which indicated that was going to happen.
Q When was this?
A I'm not sure. I'm looking at a letter here from Jeffrey Stern to me dated May 4, 1987 in which he says, Dear Robert, I have received Jim Guy Tucker's letter of April 27, 1987, and I agree that we should complete our agreement in anticipation of a special legislative session.
However, I do not believe the Federal Home Loan Bank of Dallas will approve of the agreement and workout proposal because it extends to the uncertainty of a period of time before the special legislative session meets.

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I would assume that matter was on hold at this point.
Q So your first recollection is April 27th or May 4th, rather?
A I probably knew earlier that it had been vetoed, but I don't know about that.
Q Not in terms of the veto, but in terms of the reversal of the veto or the special session introducing a new bill?
A I think that was my first knowledge of that, yes.
Q Mr. Randolph was your client as President of Castle Sewer and Water, is that correct?
A I represented Castle Sewer and Water, and I guess to the extent that he was the president, I represented him.
Q Did you have contact with Mr. Randolph say once a month?
A I don't think so. I think after my initial contacts with him, and at some point when he was compiling figures which I passed onto Madison, I think my contacts with him pretty much ceased.

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Q So you don't recall being contacted by Mr. Randolph around the time of the veto?
A I don't recall so. It could have been but I don't know.
Q Did you come to know, in April or May of 1987, that Mr. Randolph dropped by to see the Governor about the water bill veto?
A I was not aware of that.
Q Have you subsequently become aware of that?
A I possibly did at some point, but I don't know.
Q Do you recall how you became aware of that?
A I do not.
Q I continue to read.
He said that he talked to you on Sunday morning.
A Where is this please?
Q I'm reading something that's not in your documents.
A Okay.

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Q When Mr. Randolph stopped by to see the Governor, he said that he had talked to the Governor already on Sunday morning, and he wants to know if the veto is going to stand. He would like you to call Jim Guy Tucker about this. He said that he has a difficult time getting an answer from you.

Did Mr. Tucker ever mention being contacted by the Governor about the veto?

A He did not.

Q Did he ever mention being contacted by the Governor about a potential special session?

A He did not.

Q Did he contact you in any way about working out a legislative proposal which would allow you to go forward with a contract with Madison Guaranty on the workout?

A I think he probably told me and Mr. Stern at some point that he was going to try to do that. I don't know at what point it happened.

Q But it would have been in April or May, 1987?

A I would suspect somewhere along in there.

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Q To continue, Mr. Randolph mentioned a meeting between the Governor, former Governor, Jim Guy Tucker, and Jim McDougal.

Quote, a couple of years ago, and keep in mind that this was written in 1987, which involved $33,000.

Have you ever heard about this?

A I have not.

Q Has Mr. Tucker ever mentioned to you a meeting between him and the Governor or a fundraiser involving the Governor and him? Former governor, I apologize.

Strike the whole question.

A That's all right. The answer is no.

Q Did Mr. McDougal ever contact you about Castle Sewer and Water?

A He did not. I have never met or talked to Mr. McDougal.

Q Did Mr. Randolph ever mention to you a meeting between Governor Clinton, Jim Guy Tucker, and Jim McDougal involving $33,000?

A He did not.

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Q I want to turn your attention to an April 24, 1987 letter on Mitchell, Williams, Selig, and Tucker letterhead.

To The Honorable Bill Clinton

By Jim Guy Tucker

And you are cc'd on the letter, along with R.D. Randolph, Jeff Stern, Mike Wilson, and William Walker.

A I have seen that letter. I will try and see if I have a copy.

Q Thank you.

(Pause.)

A This file has been taken apart so many times to send to your office that it's not in what would be its usual order.

MR. BRENNER: We can go off the record.

(Discussion off the record.)

MR. BRENNER: Back on the record.

BY MR. BRENNER:

Q It's addressed to The Honorable Bill Clinton.

Dear Governor Clinton, HB1780 by

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Representatives Mike Wilson and William Walker was vetoed after having passed both houses with no dissenting vote.

Is that the first sentence?

A Yes.

Q The bill was designed to resolve the problem faced by small water and sewer companies that comply easily and fully with the EPA and State Health Department requirements, but are not financially able to comply with the statutes requiring rate regulation by the State Public Service Commission.

Is that correct?

Is that the right letter?

A Yes.

Q I'm going to continue.

The bill is considered an excellent model and it offers such sewer and water companies the opportunity for substantial rate deregulation if the company is willing to limit its rates to no more than 110 percent of the rate being charged by a city of the first class to its own customers.

R.D. Randolph, Madison Guaranty Savings &

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Loan and I were all very disappointed that this non-controversial bill was vetoed. If the special session does become necessary, we ask that your call include this legislation. If a member of your staff, who suggested the veto, has any questions or desires revisions in its form, we certainly hope Representative Walker, Representative Wilson, R.D. or I will be given the opportunity to respond.

Do you recall seeing this letter?

A Yes.

Q Did Mr. Tucker discuss this letter with you before writing it?

A No.

Q Did he discuss this letter with you after writing it?

A No.

Q Did Mr. Randolph discuss this letter with you?

A No.

Q Did Mr. Stern discuss this letter with you?

A He could have called to say that he hoped

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it would be passed, but I don't recall any discussion with Mr. Stern about it.

Q Do you recall talking to Governor Tucker during April of 1987 about the veto or about the special session?

A I don't recall. I could have, but I don't recall any such conversation. He may have called to say that they were trying again to see if they could get it passed. I may have passed that on to Mr. Stern. But I don't have any specific recollection of any conversations with Jim Guy Tucker about his legislative efforts.

Q There's two handwritten notes on one sheet of paper. One of them on the bottom has your classic small "r" small "s". Is that your classic signature on handwritten memos?

A Yes, it is.

Q The first one appears to be to r.s. That's a phone message, April 27th, Jeff Stern, (202) 232-1016. Any progress on Castle Sewer and Water?

The bottom one is dated April 28, 1987 at 4:55.

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A I don't have it, but go ahead.
Q I'm working with Mr. Gicale to read the memo.
A Okay.
Q And it says, although your handwriting is better than most we've seen --
A That's a combination of somebody.
Q I represent it to Catherine Shepherd, and then it's in a parenthetical, in Jeff Stern's absence.
MR. COLE: I think it says I reported to Catherine Shepherd.
MR. BRENNER: You're correct.
I reported to Catherine Shepherd in Jeff Stern's absence.
MR. COLE: A letter from Jim Guy to Governor Clinton, and that Jim Guy's writing a separate letter to Jeff on status. r.s.
Your handwriting's pretty good, Mr. Shults.
THE WITNESS: Okay.
BY MR. BRENNER:

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Q Do you recall this note of this phone conversation?
A I don't specifically recall it, but I'm sure that that note accurately reflects what it was.
Q I'm curious why Mr. Stern, did Mr. Stern contact you often for updates on the legislative initiative?
A No, not to my recollection.
Q And when he did call on you, and ask you for a report, how did you compile the information to give him a report?
A I probably called Jim Guy Tucker and said, what's happening.
Q And Mr. Tucker would tell you what was happening?
A Yes.
Q Did Mr. Tucker tell you about any discussions he had in relation to the legislative initiative?
A He did not.
Q But it appears that Mr. Tucker told you that he'd be writing a letter to Jeff on the status,

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that's Jeff Stern?
A I believe if that's what that note says, that's what he told me.
Q Is there some reason that Mr. Tucker was contacting Mr. Stern directly, rather than going through you, his attorney?
A I don't know why. I guess that he would be more informed about how to address that question, without his telling me and letting me pass it on.
Q I have a letter on Castle Sewer and Water Corporation stationery, Jim Guy Tucker's signature, you are carbon-copied. It's dated April 27, 1987.
From the best I can tell, and correct me if I'm wrong, you received a phone call from Mr. Stern and talked to Mr. Tucker on the 27th. At that point, Mr. Tucker wrote a letter to Mr. Stern. Then you called Mr. Stern back on the 28th.
A Haven't we looked at that letter before?
Q No, we have not looked at that letter before.
A I thought I'd seen this but I'm sure that's the sequence of what happened.

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Q The letter says:
Dear Jeff, Governor Clinton vetoed HB1780. He has told R.D. Randolph and the sponsors that the veto was an error he will correct if there's a special legislative session. Such a special session is generally expected but not guaranteed. If held, it could come as early as June or as late as September.
This legislation is needed critically for the utility. I suggest we complete our contract, execute it, and wait to see if a session develops.
The effectiveness of the contract will depend on the enactment of the legislation.
Do you recall this letter?
A Not specifically, but it sounds accurate.
Q Did Mr. Tucker discuss with you discussions he had with Mr. Randolph or the sponsors of the legislation that was vetoed?
A He did not.
Q I have a May 11, 1987 letter that you wrote to Mr. Stern where you cc'd Mr. Randolph, and you bcc'd Mr. Jim Guy Tucker.

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It says:

Dear Jeff, this is in response to your letter of May 4, 1987 regarding Castle Sewer and Water Corporation. As things now look, it appears that the Arkansas legislature will meet in special session sometime during June or July. Hopefully the necessary legislation will be on the call for the special session.

In the meantime, as a sign of continued good faith, Castle Sewer and Water Corporation will begin some payment to Madison Guaranty Savings & Loan Association in June subject to the specific understanding that any such payment shall not be argued or offered as evidence of any admission of liability for such payments or any other liability from Castle Sewer and Water to Madison.

We will keep you advised of the developments as soon as we know something more definite about the special session of the legislation.

Do you have a copy of this letter?

A I've seen it.

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What's the date?

Q May 11, 1987.

A I've seen it in my file and I know it's there somewhere.

Q Do you recall sending the letter?

A No, but I'm sure that I did.

Q Do you recall the substance of the letter?

A Yes, just what you've read.

Q Yes?

A Seemed an accurate statement.

Q I'm curious. Did you discuss with Mr. Tucker, prior to this letter, the contents of this letter?

A I'm sure I did. I was, at that point, acting as a conduit from Mr. Tucker to Mr. Stern on what was happening in regard to the legislation.

Q When did you start acting as a conduit?

A Almost from the beginning when Mr. Stern would ask what's the status of the legislation, he would contact me and I would contact Jim Guy Tucker, and report back what I was told.

Q Then my question is, why did Mr. Tucker

write directly to Mr. Stern if you were acting as his attorney?
A My answer is that I don't know.
Q Do you know why Mr. Tucker didn't address Mr. Stern's May 4, 1987 letter himself?
A I do not.
Q Have you heard from anybody about a meeting between the Governor and Jim Guy Tucker or R.D. Randolph?
A I have not.
Q How about a meeting between Bill Clinton and Representative Walker during May 1987?
A I do not know anything about such a meeting.
Q Do you know who Sam Bratton is?
A He's the Chairman of the Arkansas Public Service Commission at this time.
Q Do you know what his former position was?
A Not specifically. I think he was advisor to the governor.
Q If I told you he was chief counsel to the governor, would that refresh your recollection?

A I would state that if you're saying that's what his title was, that that's probably correct.
MR. BRENNER: Can we go off the record for a minute?
(Discussion off the record.)
BY MR. BRENNER:
Q Did Mr. Tucker ever mention to you a meeting that he had with Mr. Bratton?
A He did not.
Q Did Mr. Tucker ever mention that he had plans to discuss with Mr. Bratton the proposed legislation?
A He did not.
Q Did Mr. Tucker ever mention to you the fact that Mr. Bratton had concerns about the original legislation?
A He did not.
Q Did Mr. Tucker ever mention to you the fact that Mr. Bratton recommended to Governor Clinton a veto of the original legislation?
A He did not.
Q Mr. Bratton wrote a memorandum which you

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do not have. It's dated May 19, 1987, and it says:
Sewer District Regulation Legislation
Jim Guy Tucker
R.D. Randolph
Mike Wilson
Bill Walker.
In the memorandum, it states: I have talked to Tucker about the situation. According to Tucker, Madison Guaranty Savings & Loan purchased the water and sewer company when it purchased the old Little Rock Industrial Park Area.
However, the S&L subsequently learned that it could not legally own and operate the utility company.
Therefore, the company was sold to a company organized by R.D. Randolph for the purpose of acquiring this water and sewer utility.
The problem arises from the fact that the utility, legally subject to regulation by the Public Service Commission, is prohibited from mortgaging utility property without permission of the Public Service Commission.

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Madison Guaranty is the mortgage holder. Therefore in Tucker's opinion, the mortgage is invalid as the utility had not filed for regulation and obtained approval of the mortgage.
Is that a correct statement of the law?
A I have no idea.
Q Is that the argument you were asserting in terms of rescinding the original contract?
A No. I think that must have come up later. My arguments regarding rescinding the initial contract are I think set out in my initial letter to Board of Madison Guaranty to the effect that I think the primary deficiency was the number of hookups to the system.
Q That appeared to be the original reservation but at some point, as we discussed earlier, in I believe your 10/28 notes, you talk about registering the sewer and water. Jim Guy Tucker talks to you about registering the sewer and water company and then subsequent to that, prior to 1987, there were concerns that in fact they didn't want to register with the Public Service Commission,

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but rather they wanted legislation, is that correct?
A The time sequence is reflected in these various letters which we have discussed. I'm not sure of the dates but essentially I think what you said is correct.
Q So at some point, you were making, as part of your argument for recision, the fact that the mortgage was invalid?
A I don't think I ever made that argument.
And the discussion of the law that Mr. Bratton is referring to, I don't think that was ever used in any way by me, because I don't think I understood that problem. I think the problem that I understood about registration was the rates that would be charged for the users of the system.
Q Well, did then Mr. Tucker ever discuss with you this theory?
A I don't believe he did.
Q So the only time you heard of this theory is through me right now?
A There were some earlier reference at some point about insurance. Whether that had anything to

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do with the validity of the mortgage, I'm not sure. But I think that you're telling me something that was not a concern of mine or not involved in my negotiations.
Q You're representing Mr. Tucker on the workout of the contract and, as I understand it, he never mentions to you one of the legal arguments for recision of the original contract is the fact that there was no registration of the company prior to Madison obtaining the mortgage.
Is that correct?
A I think that's probably correct. That never entered into the negotiations as far as I recall.
Q Did the threat of litigation enter into negotiations?
A Yes.
Q At what point did the threat of litigation enter into negotiations?
MR. COLE: Let's be sure we all mean the same thing by the threat of litigation, because I'm not sure I know what that means in this context.

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THE WITNESS: I would just say this, Mr. Brenner.

Early on, I think I indicated to the people at Madison that if some sort of a settlement wasn't worked out, that a suit would be filed to rescind the contract.

BY MR. BRENNER:

Q Okay. I'm going to turn your attention to the third paragraph of this memo, which you do not have. It's the May 19th, 1987 memo, and it says:

According to Tucker, if the legislation exempting certain water and sewer companies from PSC regulation is not enacted in the special session, litigation will probably be initiated between Madison Guaranty and the company owning the utility, and that the initiation of litigation between those two parties would likely negate the possibility of the utility expanding its operation through any sort of arrangements with the City of Wrightsville.

I assume the litigation would result because of the question of the validity of the mortgage, and the fact that the S&L is now being

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operated under the close scrutiny of the FSLIC and is no longer controlled by McDougal et al.

Did Mr. Tucker ever mention the fact that he made this threat?

A No.

Q Were you cognizant of the fact if the legislation wasn't passed that litigation might well proceed?

A I assume that that was always a possibility, but at that point, Jeff Stern and the people at Madison and I, on behalf of Castle Sewer and Water, were working toward, with both parties, working to avoid litigation.

And I think the principal purpose on behalf of Madison was that they did not want to take the system back.

Q So litigation probably would not have been initiated?

A It would only have been initiated if further negotiations between Jeff Stern and me had broken down.

MR. COLE: Mr. Shults and Mr. Brenner as

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well, on this point, it might be useful to take a look at the document that you previously showed to Mr. Shults, the May 4, 1987 letter from Mr. Stern at Ingersoll & Block to Mr. Shults because the second paragraph of that letter says something I think very similar to what Mr. Shults is saying.

It discusses, the first paragraph discusses the uncertainty regarding the special legislative session at which new legislation was to be introduced.

And then the second paragraph says, and I quote: I recognize that both parties are negotiating within good faith to consummate this deal. However, Castle Sewer and Water Corporation is in default on its loan, and since there is some cash flow from the operation of the utility, all such net operating income should flow to Madison under the terms of the loan.

I won't read the entire letter, but it seems to me that this letter reflects what Mr. Shults is saying, that the parties were trying to reach an agreement here and were well cognizant of the fact

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that there was some uncertainty associated with this legislation.

Am I understanding you correctly on that point, Mr. Shults?

THE WITNESS: Yes, that's what I've been trying to say.

MR. COLE: I'm just trying to speed the process up, if I can.

THE WITNESS: Thank you.

BY MR. BRENNER:

Q Did Mr. Tucker ever mention to you the failure to register the mortgage -- excuse me. I'm going to go back to the first part of the memo.

Did he ever mention to you that the utility, subject to regulation by the Public Service Commission, is prohibited from mortgaging utility property without permission of the Public Service Commission?

A I don't remember specifically that we ever discussed that particular point.

Q So the validity of the mortgage was never really discussed in relation to the need to get

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permission from the Public Service Commission?
A I don't believe it was discussed with me.
Q As an attorney, if you are representing the mortgagee, would you look into the legal ramifications of issuing a mortgage on a company that was required to register and get permission of a state regulatory authority?
A Well, I guess if I was a utilities lawyer, I might. But if I had a problem like that involving a utility, I would probably refer it to somebody who knew about utility law.
Q Was it part of yours or actual Mr. Tucker's strategy to put some pressure on Governor Clinton by targeting the litigation which may subsequently call into question his wife's law firm's legal work?
A Whose legal work?
Q Hillary Clinton's legal work.
A I never knew anything about that one way or the other. And as I've told you before, I was not privy to Mr. Tucker's efforts to get the legislation passed, except to periodically report to Mr. Stern

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what was happening.
And I do not know what kind of pressure he put on anybody.
Q At the beginning of June 1987, on the correspondence, there's a new name. I didn't know if you knew who it was. Mr. Michael O'Malley.
A He is or was at one point a lawyer in the Mitchell Williams Selig & Tucker law firm, I believe. Whether he was at that time, I'm not sure, but he was at some point.
Q I have a June 2nd, 1987 letter on Mitchell Williams Selig & Tucker letterhead, cc you're the second name on the cc.
A Okay. Who is it to?
Q To Jeffrey Stern from Loreta King.
A Who is she?
Q She's Mr. Tucker's personal secretary.
A Okay. What's she saying?
Q It's a letter to Mr. Stern that says:
Please find enclosed a copy of a proposed bill which we have received from the Governor's office. Mr. Tucker needs advice as quickly as

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possible on the effect of this proposed bill.
Do you recall receiving this letter?
A I'm sure I did. It shows a copy to me.
Q Do you recall seeing the proposed legislation?
A I probably did. It probably did accompany that letter. I paid no attention to the proposed legislation and I quite possibly saw it.
Q So you had no interest in whether or not the legislation would be effective for your client?
A I'm representing Castle Sewer and Water in connection with the legislation or regulatory problems of the Public Service Commission, because I was not knowledgeable in that area. I represented them in what I previously described.
Q I appreciate that.
On that same date, there's a memorandum to Jim Guy Tucker from Michael O'Malley.
A Dated what?
Q June 2nd, 1987.
A I found that one.
Q The memo?

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A Yes.
And I also see now the letter from Loreta King to Mr. Stern.
Q Do you recall seeing Loreta's letter?
A Yes.
Q And you stated earlier you didn't look at that proposed legislation?
A I did not.
Q Did you receive a copy of this memorandum to Jim Guy Tucker from Michael O'Malley?
A I did. I don't know why.
Q Did you read it?
A I probably glanced at it. But, you know, it didn't mean much to me. Looking at it now, it still doesn't.
Q I'm going to turn to a June 18, 1987 letter written by you to Jeffrey Stern.
A Okay. Let me see if I -- I haven't found it yet.
Q Enclosed is Act 37 of 1987.
A I found it.
Q It says: Enclosed is a copy of Act 37 of

the First Extraordinary Session of the 76th General Assembly 1987.

A Right.

Q This legislation exempts from regulation small water and sewer utilities as public utilities under the jurisdiction of the Public Service Commission?

A Right.

Q You looked at Act 37?

A I doubt if I did.

Q Well, then, how did you come to write this letter?

A I would imagine that I was told that that was the effect of the Act.

Q A class C utility, under the above criteria, is one whose annual operating revenues are less than $150,000. The letter seems fairly specific in terms of what the bill does.

Did you receive a letter from Jim Guy Tucker explaining the legislation?

A It may have been that that was the purpose of him sending me that memo of June 2, 1987 from

Michael O'Malley to him. Because it has references to class C utilities and that sort of thing. And from that memo, I may have been able to report what happened to Jeffrey Stern.

Q But you stated earlier that you'd only glanced at the memorandum?

A Yes.

Q So you would have actually had to read the memorandum?

A Probably.

Q The last sentence in the second paragraph?

A Yes.

Q I would hope that this could be accomplished at the earliest possible time. In view of our delays which we've already experienced, I would hope that this could be accomplished at the earliest possible time.

A Yes?

Q This was late June 1987?

A Yes.

Q And the negotiations had already been worked out, hadn't they?

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A Yes, I believe they had.
Q So I'm trying to figure this out.
At the end of June, you had already had a significant number of discussions with Jeffrey Stern, and you'd worked out the terms for the agreement?
A Yes.
Q And then four months later, you actually signed the agreement. Is that correct?
A Yes.
Q Do you recall why the delay?
A I think the Federal Home Loan Bank Board in Dallas had to approve the agreement before it could be executed on behalf of Madison Guaranty.
And I think that it took four months to get that approval.
Q And then between the time of the approval and the time of the actual signing of the mortgage -- excuse me, of the note, that took another two months.
Is that correct?
A I don't know. When was the approval obtained?
Q The approval was obtained December 21st,

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1987.
A That would indicate five or six months.
Q That's correct, but two months after the signed agreement.
A Well, I think the agreement was probably signed contingent on the Federal Home Loan Bank Board approving it, and you're telling me that approval came much later.

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EVENING SESSION

(6:00 p.m.)

BY MR. BRENNER:

Q I don't believe that's what I said.

What I said was was that the agreement was actually signed on the 5th day of October.

A 1987?

Q Yes.

A Okay.

Q So it obviously wasn't signed contingent upon approval; it was obviously signed after the approval or is that not correct?

A When was the approval of the Federal Home Loan Bank Board obtained? I'm not sure I have that date.

Q Well, I want to get back, before we get to the approval, I want to get back. I have a handwritten note of yours from July 2nd, 1987.

A Okay. Is it on a small piece of paper or a big piece of paper?

Q It's on a full legal size, but it's kind of a four and a half by four a half on the right hand

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side and about in the middle.

MR. BRENNER: We can go off the record.

(Discussion off the record.)

BY MR. BRENNER:

Q I call Sarah Hawkins about signing the agreement today.

A Right, I see it.

Q Can you read that for me?

A I called Sarah Hawkins to see about signing the agreement today. She says they cannot sign it as drafted because there is no definite obligation for payment of principal.

I explained that was to be paid out of NOI, which would be net operating income.

She said they could not legally enter into such an agreement.

Jeff Stern is supposed to get with me on what to do next.

I reported above to R.D. Randolph.

Q How come you didn't report to Mr. Tucker?

A I suppose, by that time, I was told to report to Mr. Randolph.

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Q When I asked you whether or not the deal was pretty much done by the time of the passage of the legislation in June, it appears that the deal wasn't done, that there was a sticking point.

Is that correct?

A It looks like that is true.

Q And they wanted a definite obligation for payment of principal, is that correct?

A That's what appears to be the case.

Q What does that mean?

A Well, I think that the agreement, and I'd have to look at it to be sure, that if we negotiated it, provided for payment of the note out of the net operating income of Castle Sewer and Water.

She's raising a concern about the note having a definite promise to pay whether or not there is any agreement.

Q And your clients wouldn't agree, or would they agree to the repayment, regardless of NOI?

A You'll have to look at the final agreement to be sure.

Q We might as well pull out the final

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agreement because we're going to be looking at that.

MR. COLE: I like the word final.

(Pause.)

THE WITNESS: All right, I think I have it.

BY MR. BRENNER:

Q What was the final resolution on the issue of guaranteed payment of principal?

A I'm looking to see if I can recall. You've looked at it since I have. What does it say?

Q It says a lot of things.

A What does it say about the point that you're raising? Where is that and where should I be looking?

Q I'm going to strike that question and get back to it.

A Okay.

Q You have handwritten notes that are dated 7/6/1987. On top you have Jeff Stern. It says problems that arose in his meeting with Cuffman and Hawkins.

A Tell me again the date please.

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Q 7/6/1987, July 6th.
A I don't have it yet.
Q No problem.
(Pause.)
A Yes, I see a long, yes, I see it.
Q Is that your r.s. initial about the middle of the page?
A That is.
Q Okay.
On the very bottom of the page, you have Capital Management Company Co. note payable $150,000.
A Yes?
Q Did you know at that time who Capital Management was?
A Yes, I knew by that time, I think, who it was.
Q What was your understanding of who owned Capital Management?
A I don't know who owned it, but I think that David Hale ran it.
Q What was your understanding of what Capital Management Company was?

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A A loan company, I believe.
Q Did you know that Capital Management had received funds from the Small Business Administration?
A I did not.
Q Did Mr. Tucker ever mention to you the fact that Capital Management Company was loaning many of his various interests money for the companies to invest?
A No. Except that I had seen earlier the loan application from Castle Sewer and Water to Capital Management.
As I indicated, I was aware of that phone application. I don't think I knew until later, and apparently in July of '87, that the loan was actually outstanding.
Q So this was your first contact with the fact that there's a loan outstanding to Capital Management for $150,000?
A As far as I know.
Q If you could read number 1?
A Yes.

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Q There's some scratching out, and I'm curious if you could read that to me.
A What to do about debt to Hale's company that is not have him pay off and leave Madison out. They can cure default. I have to find out what are terms on this. I think that's what I was finding out, that there was such an outstanding loan.

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Q Do you recall what you found out about this $150,000?
A I don't think I found out any more than that note indicates; that there was such an outstanding loan. I do not know what happened to it.
Q What do you mean by, not have him paid off and leave Madison out?
A I'm not sure. I'm trying to decipher. "What to do about debt to Hale's company." I don't know what that means, frankly. I can't recall.
Q In fact, one of your options was recision.
A Right.
Q One of the terms of the recision would be that the $150,000 would be repaid to Castle Sewer and Water with interest.
Is that correct?
A I believe that's right.
Q So was there concern for Madison even as late as July 6, 1987, about what to do in terms of Hale; and that is that they didn't want to have David Hale paid off and leave Madison out?
A It must have been a concern of Mr.

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Cuffman's that Jeff Stern was conveying to me at that time. With Jeff Stern's name at the top, this indicates what he was saying to me on July 6, 1987. And I guess that he was saying there was a problem that Cuffman and Hawkins had pointed out to him about that.

Q Do you recall what was being said at the time about the Hale loan, about the repayment concern?

A I do not, and I had nothing to do with that loan, and I don't know what happened to it.

Q You were involved to the extent that you knew there was a $150,000 down payment that was part of the negotiations for the workout.

A Absolutely. But I did not know until apparently at this time that there was also a $150,000 loan from Capital Management to Castle Sewer and Water.

I did not in my negotiations, my contact with the file, I did not know where the $150,000 came from, unless it went from Mr. Tucker and Mr. Randolph to Castle Sewer and Water, and from Castle Sewer and

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Water to Madison.

Q With the exception of number one, could you read the rest of the note?

A Number two says, "On refinancing, they get paid as if there was a sale." And I have down there "No."

I guess what happened there is that Jeff Stern outlined all these conditions to me, and I must have discussed them with either Randolph or Mr. Tucker.

Q Do you recall whether it was Mr. Randolph or Mr. Tucker?

A I do not.

Q Was it Mr. Randolph who usually had the final say on the negotiations, as opposed to Mr. Tucker -- or as opposed to Mr. Randolph?

A I think it was probably both of them. But I do not know how they dealt with each other.

Q In terms of how Mr. Tucker dealt with you, did he portray to you, or give you an indication, that he was controlling the negotiations from the point of view of Castle Sewer and Water?

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A Yes. But he told me that this was the position that Castle Sewer and Water would take. I assume that was correct, the same way if Mr. Randolph told me that this was a position that Castle Sewer and Water would take, I assumed that was correct.

Q Who told you more often that this was the position of Castle Sewer and Water?

A I suppose Mr. Tucker probably more, but I'm not sure about that.

Q Can you continue to read the note, please?

A Number three says, "Examination of books and records." And I have "Okay." I guess that means that that was all right.

"Paragraph 9..." -- number four says, "Paragraph 9 provides for appraisers if they cannot agree on price." And I have "No" written by that. I don't know what was to be appraised. I guess the property.

Q Was price still a sticking point as late as July 6, 1987?

A You'd have to look at paragraph 9 of the agreement. That may have had something to do with

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right of first refusal on the part of -- by the same bank.

Q That is. Thank you.

A Is that correct?

Q We believe that to be correct, yes.

A Okay. I'm not sure. Shall I go on?

Q Yes, please.

A Number five says, "Regulations will not allow for interest only for ten years. Some obligation for payment on principal after three years. I suggested 30-year amortization, plus a balloon in 20 years. He said he felt sure a balloon would have to be in 10 years. Not too positive on that."

So I guess that was a question that he was raising from their regulatory standpoint. And I don't know; I'd have to look at the agreement to see what was ultimately decided on that.

Number 6 asks, "What to do about adding difference between 6 percent and 10 percent each year." I had "No" written beside that.

MR. COLE: Does that say "What to do about

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adding" or "What to do about addressing?" It looks to me like it says, "What to do about addressing differential between 6 percent and 10 percent each year."

THE WITNESS: We were talking about my writing, and I can't even read my own writing. I'm not sure. It may be "addressing." I think that's probably what it is.

MR. COLE: It makes more sense to me to read it "What to do about addressing differential between 6 percent and 10 percent each year." But you wrote it.

THE WITNESS: I expect that's probably right. I wrote it, but I think you may be more nearly correct than I was.

BY MR. BRENNER:

Q And then your initials?

A Yes.

Q And then on the right-hand side --

A Down at the bottom?

Q Yes, sir, where it says --

A Where it says "$100 per month?"

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Q Yes, sir.

A Right.

Q Then finally, the last thing is --

A "Capital Management Company, note payable, $150,000."

Q Did you initial these before you wrote that?

A I probably did, and I probably had asked what is the note they're talking about in number one. Probably what they said they were talking about -- I guess that note was payable from Capital Management to Madison.

(Pause.)

Q Did you continue to deal with Mr. Stern from Ingersoll and Block throughout the consummation of the workout?

A Yes.

Q He stayed as the primary contact for you for Madison?

A Yes.

Q I want to talk to you about the differences in the workout between the final

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agreement and the original agreement, the original agreement being the two notes dated February 28, 1986, and the amended note, which is dated December 17, 1987.

A I'm looking for that note. I'm not sure I have it. Yes, I see it; okay. I see the December 21 -- I've got the December 21, '87 note.

Q You see the December 21, '87 note. Is that what you said?

A I do.

Q What I'd like to do is just go over some of the differences between the original agreement and the amended note. And the amended note extended the maturity of the indebtedness from 1991 to December of 1997.

Is that correct?

A Yes.

Q But it did not permit the acceleration of the principle in the event of default on the monthly interest installments?

(Pause.)

You won't find the acceleration clause,

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because in the amended note or the final note, there isn't one. But in the original note, dated February 28, 1986, there is one.

A All right. I'll accept your representation.

Q Okay.

Further, the final note didn't allow Madison to recover attorney fees in the event that it had to sue or issue legal proceedings to collect the debt. Is that correct?

A It looks to be correct.

Q As you understand it, the acceleration clause and the legal fees are fairly standard contract clauses in most commercial mortgages, most commercial notes?

A In any routine bank loan, that would probably be true.

Q Do you recall discussions of changing these two, of not including them, in the amended note?

A No.

Q I'm sorry?

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A I do not. I do not recall any discussions of that.
Q Do you recall writing, or having Mr. Tucker write, that these two provisions should not be included in the amended note?
A It's possible. I don't recall that.
Q And you don't know why they weren't included in the amended note?
A I don't recall, no. I'm not sure whether I drafted that note or Mr. Stern drafted it.
Q I just have one last question. And that is, I wanted to confirm that you're not aware of any work done by Hillary Clinton or the Rose Law Firm with respect to Castle Sewer and Water or the Industrial Development Corporation.
Is that correct?
A That is correct.
MR. BRENNER: We're finished with our questions for now. Thank you.
THE WITNESS: What do I do now?
EXAMINATION
BY MR. COLE:

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Q Mr. Shults, this is Lance Cole, the Democratic counsel. I apologize. This has already taken a great deal more time than I thought it would. I think you know, sir. It's 25 after 6:00 now. I'll try to be brief, but I do have a few questions for you. The way our procedure works here, my turn comes after the majority has finished.
In terms of your representation of Castle Water and Sewer, you testified that you undertook that representation in July 1986?
A That's correct.
Q You were approached by Mr. Tucker and asked to represent that corporation?
A Yes.
Q Who owned the corporation at the time?
A I believe that Mr. Tucker and Mr. Randolph owned it. That was my understanding.
Q To summarize your testimony -- and please correct me if I mischaracterize it in any way -- you were retained by Mr. Tucker to work to try to resolve a potential dispute between Castle Sewer and Water and Madison Guaranty and its affiliates concerning

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the financing on Castle Water and Sewer's purchase of the utility from Madison Guaranty.

Is that correct?

A That's correct, although I think I would characterize it as, I was retained by Mr. Tucker to represent Castle Sewer and Water in connection with that negotiation.

Q Yes, sir, that is what I meant to say.

In particular, the dispute involved an agreement that Mr. Tucker had advised you he had reached with Mr. McDougal?

A That is correct.

Q Pardon me?

A Yes.

Q Regarding the guarantee of a number of hookups to the system that in turn would have provided income. Is that correct?

A Yes. That was an essential part of the agreement as I understood it.

Q At the time you were retained, Mr. McDougal had been removed from Madison Guaranty by federal regulators, and the institution was under the

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control of new management reporting to the federal regulators.

Is that correct?

A That is correct.

Q And Mr. Stern of Ingersoll and Block had been retained by new management to represent Madison Guaranty on the same issue?

A Yes.

Q I'm not going to belabor the point concerning the validity or invalidity of the agreement between Mr. McDougal and Mr. Tucker, because in my view it's not really germane to what this committee's investigating, and in any event I think it's been thoroughly explored.

What I'd like to focus on is the state legislation involving the utility. There came a time when you understood from your client that an effort would be made to have legislation enacted that essentially would have excused or removed Castle Water and Sewer from regulation as a public utility in Arkansas.

Is that right?

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A I'm not sure if it would have removed it from the regulation of the Public Service Commission. But it would have removed, as I understood it, the way in which the rates -- or, it would have changed the way in which the rates that would be charged by Castle Sewer and Water were determined.

Q Yes, sir. I think that's a more accurate way of describing it. I agree with that.

If I could direct your attention to a document that Mr. Brenner previously referred you to, a September 24, 1987 memorandum from Jim Guy Tucker to Mike Wilson regarding proposed legislation --

MR. BRENNER: A what?

MR. COLE: A September 24, 1987 memorandum to Mike Wilson from Jim Guy Tucker.

MR. BRENNER: February.

MR. COLE: I'm sorry. I'm reading it wrong. It says "2/24" and I read it incorrectly.

BY MR. COLE:

Q February 24, 1987.

A I'm looking for that again, Mr. Cole.

Q I apologize for making you go back.

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A That's all right.

(Pause.)

Q Just to save time, while you're looking for that, if you would look for -- in the materials you produced to us, there are copies of the actual legislation itself, including House Bill 1780 and House Bill 1047. I want to ask you about those as well in connection with this memorandum.

A Yes.

(Pause.)

All right. I have the memorandum. I don't have the bill.

Q We'll focus on the memorandum for the moment.

This I understand to be a memorandum from Mr. Tucker to Mr. Wilson, who was a state legislator in Arkansas.

A Yes.

Q Is that correct?

A That's correct.

Q Now, in your discussions -- and I realize from your prior testimony that they were limited --

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but in your discussions with Mr. Tucker about this legislation, did he ever indicate to you that he had any special influence over Governor Clinton in terms of having legislation enacted?

A He did not indicate that to me.

Q Was there anything in his conduct or manner in dealing with you on this proposed legislation to lead you to believe that that was the case?

A No.

Q I would ask the same questions with regard to Mr. Randolph, whether Mr. Randolph either said anything or did anything that would indicate to you that he had special influence with Governor Clinton.

A He did not.

Q Finally, just to be complete, did either Mr. Tucker or Mr. Randolph indicate that Mr. McDougal had any special influence over Mr. Clinton, recognizing that at this time Mr. McDougal was no longer at Madison Guaranty?

A They never indicated anything like that to me.

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Q And as I look at the documentation -- and I don't intend, unless you need to, sir, take the time to force you to pull this back out. But, for example, I'm looking at a February 13, 1987 letter to Mr. Stern from yourself. And it states on the last page, after discussion of the proposed workout, it states "The above-proposed workout is conditioned on the proposed legislation being adopted, so the future operation of the sewer and water system can be in compliance with Arkansas law."

I only read that to you, sir, because it indicates to me the understanding of the parties, as evidenced by this writing, was that there was uncertainty as to whether or not this legislation would indeed be passed. Is that correct?

A That's certainly correct.

Q Then there came a time that the legislation was vetoed. My understanding was that that was in early April 1987, but I'm not going to take the time now to dig out the documentation.

Is that consistent with your recollection?

A I know that it was vetoed, but I don't

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recall when.
Q I believe Mr. Brenner asked you this before. But do you have an understanding as to why the governor vetoed the legislation?
A I did not.
Q Have you located the copy from the documents that you provided to the Special Committee of the bill that was vetoed, which is House Bill 1780?
A I have House Bill 1047. I guess that's the one that passed.
Q Yes, sir.
A And I have 1780.
Q As quickly as possible -- because I am trying to move along here --
A You don't have to hurry.
Q I'm actually doing it for myself, sir. But thank you.
(Laughter.)
BY MR. COLE:
Q It's an hour later here than it is there.
A I know it.

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Q If you would look at the second paragraph of the February 24, 1987 memorandum from Mr. Tucker to Mr. Wilson that I referred you to a moment ago --
A Yes.
Q -- that paragraph states, "The bill attempts to deal only with the Castle Sewer and Water system by being limited to 'private' companies within ten miles of a city with a population in excess of 140,000 (which I assume includes Little Rock but only Little Rock. We may need to check that population number.)"
Do you see that paragraph, sir?
A Yes.
Q If you then turn to House Bill 1780 --
A Yes.
Q -- and you look at the definition of "utility," which is Section 1(a) --
A Yes.
Q -- and the last, the next-to-the-last sentence of that defines "utility" to include a utility which provides service to customers within ten miles of the corporate limits of a city of the

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first class, which has a population in excess of 140,000 persons --

A Yes.

Q -- is it your understanding from looking at these documents that this bill was drafted in such a manner that it would apply only to Castle Sewer and Water Corporation, based upon this memorandum and the language in the bill itself?

A I'm not sure that it wouldn't have applied to others. But certainly it would apply to Castle Sewer and Water. It's possible that it could have applied to others that fell within that limitation.

Q In any of your discussions with Mr. Tucker or Mr. Randolph regarding this legislation, and in particular the veto of the legislation, did they mention something called a prohibition against special and local legislation under the Arkansas constitution?

A They didn't discuss that with me.

Q So you're not aware of any provision in the Arkansas constitution that prohibits passage of special and local legislation?

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A I know that there is such a provision in the Arkansas constitution. But they never discussed the application of that provision to any of this legislation with me.

Q Mr. Bratton has testified -- and I won't read into the record his testimony -- that that was the reason the legislation was vetoed. But you have no knowledge of that?

A I know that there's such a provision in the constitution. But I have no knowledge that that entered into the veto.

Q If you could look at bill 1047 --

A Yes.

Q -- which is headed "First Extraordinary Session," if you compare the definition of the utility in that bill, you see that it differs from the definition section of the bill that we just reviewed?

A I do.

Q I take it that you have no reason to believe that the fact that this bill was signed into law by Governor Clinton was for any reason other than

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the fact that it changed the definition of the utility?

A I'd have to say, Mr. Cole, that I didn't compare the two bills, and I don't know what entered into Governor Clinton's change of mind.

Q So you really can't provide any testimony for this committee on that point, then?

A No.

Q I think what you can perhaps provide testimony on, in terms of what you observed in your work for Castle Sewer and Water, was whether or not there was any understanding that it was a certainty that this new legislation would be adopted.

Do you recall, after the veto of the legislation, and prior to the adoption of the new legislation, whether the understanding of yourself and your clients was that there was some uncertainty as to whether or not the legislation would be passed?

A There was, not only on my part, but on the part of Jeff Stern and Madison as well. Certainly, I wasn't involved in the legislation enough to know whether there was uncertainty or not.

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I'm assuming because of the earlier veto there probably was uncertainty.

Q Bear with me for a moment. I'm looking for a document here.

(Pause.)

Thank you, sir. I found the document I'm looking for.

I have an April 10, 1987 level that you wrote to Mr. Randolph and Mr. Tucker. Mr. Brenner previously showed this document to you. I'll read you the second paragraph, which says, "I do not believe the changes which she has indicated present any significant problems. But this whole agreement will have to be reconsidered if House Bill 1780 cannot somehow be resurrected."

A Yes.

Q Does that indicate that you were communicating to your clients that the agreement would be contingent upon whether or not the legislation, new legislation, could be passed?

A It was contingent on it, and it was yet to be worked out at that point.

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Q So in April, there was uncertainty as to whether or not new legislation could be worked out. Is that correct?
A That's certainly correct.
Q Turning your attention to a May 4, 1987 letter that Mr. Stern sent to you, he advised you in the first paragraph of that letter, "However, I do not believe the Federal Home Loan Bank of Dallas will approve the agreement and workout proposal as it presently stands, due to the uncertainty of the period of time before the special legislative session convenes."
So you also were aware of uncertainty as to when the special legislative session would convene. Is that correct?
A That's correct. I think that probably we had discussed going ahead and seeing if we could execute the agreement and make it contingent on the passage of the legislation. He's telling me, I guess, that that would not be possible because of the Federal Home Loan Bank Board.
Q Am I correct in understanding, then, that

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the position of you and your clients was that whether or not this agreement could go forward was indeed contingent upon whether the legislation would be passed, and there was no assurance that that would take place?
A I believe that's accurate.
Q I think you've testified that neither Mr. Tucker nor Mr. Randolph ever told you anything about any meetings they had with Mr. Clinton, Governor Clinton, or Governor Clinton's staff about this proposed new legislation.
A I was not told about or aware of any such meetings.
Q So you can't provide any testimony on that subject, either?
A I cannot.
Q And despite the fact that Mr. Brenner read to you some staff memorandums concerning those meetings, what Mr. Brenner read to you did not refresh your recollection in any way about those meetings?
A I never knew anything about those

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meetings, and I never knew anything about that memorandum until he read it to me a little while ago.

Q In general, other than the veto of the first legislation, which was House Bill 1780, and then the subsequent signing into law of the new bill, which was House Bill 1047, do you have any knowledge of any involvement by then-Governor Clinton in any matters pertaining to Castle Sewer and Water?

A I know of nothing.

Q And neither Mr. Tucker nor Mr. Randolph ever told you anything about involvement by Governor Clinton, other than as I've just stated?

A They did not.

Q And with regard to the financing that the documents indicate was provided to Castle Water and Sewer by Mr. Hale's company, Capital Management Services, you knew nothing about that financing until the discussion in about July of 1987 that is reflected in your July 6, 1987 notes.

Is that your testimony?

A I still do not know the details of the financing.

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MR. BRENNER: Could you read back the last question and last answer?

(The reporter read the record as requested.)

THE WITNESS: I would also point out that in that July 6, 1987 memorandum, I am apparently referring to the debt of Capital Management to Madison. That seems to have been the reference to the $150,000 debt. It seems to be a debt brought on Capital Management to Madison, not a debt from Castle Sewer and Water to Capital Management.

BY MR. COLE:

Q I take it then, sir, that neither Mr. Tucker nor Mr. Randolph ever discussed with you the financing that may or may not have been provided by Capital Management to Castle Water and Sewer?

A They did not.

MR. BRENNER: Lance, can we clarify why this would even come to his attention if it was not related to Castle Sewer and Water?

MR. COLE: I think he's testified that he doesn't know anything about this beyond what his

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notes reflect, and he's really not sure what his notes reflect.

But, if you want to try to clarify beyond that --

THE WITNESS: I think I heard that comment.

If we look back at my memorandum of July 6, 1987, that had to do with a phone call from Mr. Stern to me. I think he's raising the question in that phone call that Capital Management owes Madison $150,000, and he's concerned somehow or other that that get paid. That's the way I interpret that memorandum.

MR. BRENNER: Why would he share that with you, I guess, if it has no relation to Castle Sewer and Water, is what I'm trying to figure out.

THE WITNESS: I think he's trying to guarantee that whatever this deal works out -- I'm looking back at that memorandum, and it says "What to do about the debt to Hale's company? Not have paid off and leave Madison out."

I guess he's saying that he doesn't want a

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debt to Hale's company, which would have been a debt of Castle Sewer and Water, paid to Hale's company without requiring Hale to in turn pay the $150,000 on a note payable from Capital Management to Madison. That's what it looks like Mr. Stern was saying to me.

BY MR. COLE:

Q Mr. Shults, I'm not trying to complicate this or prolong this further.

The reason I raised the question is that one of the subjects in Senate Resolution 120 which creates this Special Committee is the operations of Mr. Hale's company. And I'm just trying to ascertain whether you have any testimony to provide on that subject. My understanding of your testimony to this point has been that you do not, and that was my whole point in asking the question.

A I know nothing about his operations or his company. I've never met him or talked to him. I've never had any contact with anyone in any way representing Capital Management.

Q Did Mr. Tucker ever indicate that there was any connection between himself, Mr. Hale, and

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Governor Clinton in a business sense?
A Not to me.
Q Did he ever mention any meetings among himself, Mr. Hale, and Governor Clinton?
A Never.
Q I take it that Mr. Randolph also never mentioned any meetings between Mr. Hale and Governor Clinton?
A That's correct.
Q Again, I think Mr. Brenner asked you this question, but I want to make sure it's been covered.
You don't have any knowledge of any other transactions that Mr. Tucker engaged in that involved Mr. Hale or his company, Capital Management Services?
A I do not.
Q Finally, you testified that you were not aware what law firm, if any, represented Castle Water and Sewer in the purchase of the utility from Madison or Madison's affiliates.
Isn't that correct?
A There was a gap in what you were asking. Were you referring to the Rose Law Firm?

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Q My question was more general than that.
The question was whether you were aware what law firm, if any, represented Castle Water and Sewer in the purchase of the utility from Madison Guaranty or its affiliates.
A Right. I was not aware of that.
Q I think you've testified the same with regards to the representation of Madison Guaranty. In other words, you do not know.
A I do not know who represented the parties, either party, in that transaction.
Q And to the best of your recollection, the Rose Law Firm was never mentioned by anyone in connection with these Castle Water and Sewer matters that you've testified to today?
A The name of the Rose Law Firm was never mentioned any time to me in any way in connection with any of this.
Q Was Hillary Rodham Clinton's name ever mentioned in any way in connection with any of these transactions?
A No.

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MR. COLE: I don't think I have anything further. Give me one moment to consult with my colleague here. Perhaps the end is in sight.

(Pause.)

MR. COLE: I don't have any further questions, Mr. Shults.

I will tell you on the record, and also advise Mr. Gicale and Mr. Brenner, that I will discuss with Mr. Giuffra, the chief counsel to the Banking Committee, the health problems you described to us at the outset of your deposition. And we'll discuss the need for you to appear here next week. And someone on the majority staff, I'm sure, will get back to you on that.

THE WITNESS: All right. And I suppose, for my file, it would be a good idea for one of you to fax to me a copy of Senate Resolution 120, since I do not have that.

MR. COLE: I'm sure Mr. Brenner would be happy to send you a copy of that.

MR. BRENNER: My pleasure.

THE WITNESS: All right.

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Again, I would point out that I think I've told you everything that I possibly could tell in regard to this.

MR. BRENNER: I have nothing further for you, Mr. Shults. I appreciate the time you spent.

THE WITNESS: All right.

MR. BRENNER: Off the record.

(Whereupon, at 6:50 p.m., the taking of the instant deposition ceased.)

ROBERT SHULTS

CERTIFICATE OF NOTARY PUBLIC & REPORTER 163

I, DAVID L. HOFFMAN, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the
District of Columbia

My Commission Expires JUNE 30, 2000

DEPOSITION OF MARGARET A. WILLIAMS
IN RE: S. RES. 120

THURSDAY, FEBRUARY 8, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MARGARET A. WILLIAMS, called for examination pursuant to notice of deposition, at 2:14 p.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, ESQ.
Majority Associate Special Counsel
VIET D. DINH, ESQ.
Majority Associate Special Counsel
JAMES S. PORTNOY, ESQ.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

EDWARD S.G. DENNIS, JR., ESQ.
Morgan, Lewis & Bockius, L.L.P.
1800 M Street, NW
Washington, DC 20036–5869
On behalf of the Deponent.

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PROCEEDINGS

Whereupon,

MARGARET A. WILLIAMS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. O'CALLAGHAN:

Q Good afternoon. My name is Michael O'Callaghan. I am associate special counsel for the Majority of the Special Committee.

This is a deposition which is being conducted pursuant to Senate Resolution 120. The resolution establishes a special committee administered by the Banking Committee to conduct an investigation of Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, and other related matters. This deposition is in advance of public hearings. And there is a possibility you may be called to testify at those public hearings, as I am sure you are aware.

MR. DENNIS: That's not certain, is it,

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Mike? If you have a chance, the deposition will be adequate.

BY MR. O'CALLAGHAN:

Q To my left is Jim Portnoy, who is associate special counsel for Minority. We will both be asking a series of questions today.

You were just sworn in; you are testifying under oath. If you don't understand a question I pose, let me know and I will rephrase it. If you need a break at any time, let us know and we will be happy to go off the record and take a break.

The stenographer is preparing a record of questions and answers. The deposition will be treated agency committee confidential until the commencement of hearings. Prior to the hearings, you will receive a letter from the committee telling you you may come to the Senate and review the transcript and make any note of corrections for transcription on an errata sheet. If you are called to testify, you will be permitted to have a copy of your deposition prior to hearing.

You may be represented by counsel. Are you

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represented by counsel today?
A Yes, I am.
MR. O'CALLAGHAN: Counsel, would you please identify yourself.
MR. DENNIS: My name is Edward S.G. Dennis, Jr., Philadelphia.
BY MR. O'CALLAGHAN:
Q Is counsel representing you in your personal capacity or official capacity or both?
MR. DENNIS: Both.
BY MR. O'CALLAGHAN:
Q Objection to the form of the question will be noted for the record, and counsel may object on grounds of privilege or relevance, and the committee Chairman may rule on objections where the witness refuses to answer a question.
Have you spoken with anyone, other than your counsel, prior to this deposition about the deposition?
A No. I had to alert my office that I was going to be gone.
Q Have you had any discussions with anyone

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about what the possible substance of the deposition might be?
A No, I have not.
Q Did you do anything to prepare for the deposition?
A I spoke with my lawyer, I looked at my calendar -- and I don't know if you call it a review -- I had my past depositions.
Q So you consulted your calendar and your past depositions; is that correct?
A Yes, it is.
Q Anything else in preparation?
A No.
Q Could you please state and spell your full name for the record.
A Margaret A. Williams, M-a-r-g-a-r-e-t, A, W-i-l-l-i-a-m-s.
Q Do you have any nicknames?
A Maggie.

Q And your present business address?

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A The White House, Washington, D.C.
Q What is your present position?
A Assistant to the President, and chief of staff to the First Lady.
Q And how long have you been in that position?
A God, three -- three years.
Q What did you do prior to that?
A Prior to that, I was graduate student at the University of Pennsylvania.
Q Do you supervise anyone in your current position?
A Yes, I do.
Q How many people do you currently supervise?
A About 16 people.
Q Anyone who directly reports to you?
A Directly reports, maybe five or six.
Q To the best you can, name the five or six you believe have a reporting relationship to you.
A Okay. The office manager, my assistant.
Q If you could give names as well as titles.
A The office manager, Evan Ryan. Debbie

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Both, my assistant.
Q How do you spell the last name?
A B-o-t-h.
Q She is your assistant?
A Yes.
Q Okay.
A The press secretary -- I want to just check with -- I'm having difficulty understanding the question.
Q Oh, sure.
A Of reporting directly to me?
Q I am just trying to get a feel for -- in your position -- who you supervise and who has a daily or direct reporting relationship with you in the office, if that's clear.
A It is much more collegial than that. I have a deputy. I have a deputy chief of staff, Melanne Verveer.
Q Spell that?
A M-e-l-a-n-n-e, V-e-r-v-e-e-r.
Lisa Caputo, the press secretary, C-a-p-u-t-o; Ann Stock, the social secretary, A-n-n,

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S-t-o-c-k; Neel Lattimore, L-a-t-t-i-m-o-r-e; Patty Solis, who is actually on the advance and scheduling staff, but works on Mrs. Clinton's schedule specifically, S-o-l-i-s. Karen Finney, the deputy press secretary; Alice Pushkar, P-u-s-h-k-a-r, the director of correspondence for the First Lady; Capricia Marshall, the personal assistant to the First Lady. I think that's it.

Q Who do you directly report to?

A Leon Panetta, the two deputy chiefs of staff, Erskine Bowles -- not Erskine but it was Erskine Bowles and Harold Ickes, and Mrs. Clinton. I-c-k-e-s.

Q Anyone else?

A No.

Q Where is the physical location of your office?

A I share an office with my assistant in the Old Executive Office Building, room 100. And I have an office in the west wing, which is the second floor of the White House.

Q Does anyone else share that office with you

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in the west wing, or is that yours alone?

A Unofficially, it is mine alone, but when I am not there, anyone can use it.

Q How much time do you spend in each office, generally?

A It just --

Q Does it vary?

A It just varies.

Q To the best you can answer, during the course of a workday, how much time would you spend in your OEOB office?

MR. DENNIS: You mean like percentage-wise?

THE WITNESS: On average, I don't -- I spend a lot of time in the Old Executive Office Building. But it really just depends what I am working on at that time, where the number of meetings that I have during that day are.

I would say I spend probably 75 percent in the Old Executive Office Building.

BY MR. O'CALLAGHAN:

Q Would the other 25 percent be in the actual

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White House, or the White House and other places?
A Yes, the only other place would be in the White House.
Q That would be at meetings and also in your west wing office?
A Yes.
Q When you have meetings in the White House, where do they typically take place, if typical is a good word? If it is not, tell me the different places you have had meetings.
A Mr. Panetta's office; the Roosevelt Room is probably the most typical place for the meetings.
Q Where is that located?
A It is the first floor of the White House, west wing. Oh, I spend time in the east wing, in the east wing, Ann Stock.
Q In her office, is that --
A Not necessarily in her office, but in the state rooms, and then I meet with Mrs. Clinton.
Q And her office is in the east wing?
A In the east wing, but typically we meet in the map room or the second floor residence.

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Q Where is the map room?
A It's what's considered the ground floor of the residence.
Q Anywhere else?
A Then just whoever might invite me to their office, but that could be -- there is another conference room, room 180 in the Old Executive Office Building.
Q Meetings on the second floor of the residence, where do those normally take place?
A The dining room or the west wing sitting room.
Q Now when you normally refer to the east wing and the west wing, is that generally a reference to office areas in the White House, or is there also east and west denominations in the residence?
A Oh, I guess there are. But I tend to think of the residence as east wing and the White House proper, or where the offices are, as west wing. Although there are a number of offices in the east wing, too.
Q Is the residence located in the west side

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of the White House also?
A No, no.
Q Excuse my ignorance.
A No, that's okay. I am still figuring it out.
Q You just mentioned the second floor of the dining room and the west wing sitting room. So the west wing sitting room, is that office space or residence?
A That's residence and so is the dining room.
Q Anywhere else on the second floor you had meetings?
A No, that seems to be --
Q Did you have any meetings on the third floor?
A Yes.
Q Where would those meetings take place or where have they taken place?
A In the -- in Mrs. Clinton's -- oh, well, I call it the computer room, where her computer room is, where she worked on her book.

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Q Anywhere else?
A A long time ago they -- they might have had meetings in the solarium, but that was very early in the administration.
Q More than a year ago?
A I think so. Oh, yes, I am sure.
Q Was there a specific time where they stopped having meetings there?
A No. I mean these were -- these were more general staff meetings; they weren't necessarily Mrs. Clinton's meetings. They were just more general.
Q Is there a reason why they stopped having general staff meetings up there or just --
A No, I just -- I don't know.
Q They just stopped meeting there. Okay.
During the course of the last year, since say -- let's say from January 1995 to today, how many occasions have you had to go to the second floor of the residence, if you can give me an approximation?
A In January -- I'm sorry, what did you say, the beginning of this year or --

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MR. PORTNOY: Maybe it would be easier for her if we asked if she goes daily or weekly or monthly.

BY MR. O'CALLAGHAN:

Q Yes, we can go from there. Do you know over the last year?

A I would not have a specific number.

Q Could you give me a ballpark, whether it is weekly or monthly or twice a year, more than that?

A At least -- at least once if not twice a week.

MR. DENNIS: This is the second floor of the residence?

THE WITNESS: Yes.

BY MR. O'CALLAGHAN:

Q What would be the purposes of those visits?

A Well, we try to have a daily scheduled meeting with Mrs. Clinton and Patty Solis. I say once or twice a week because we figure out if we really need to meet or if we can do it on the phone or whatever. But I would say at least once or twice a week we try to get over there to meet in person.

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Q When you say "daily scheduled meetings," you are talking about preparing the daily schedule?

A Yes, not that day, but the following day. And looking out a month or two, if we can, depending on what the schedule is.

Q Just so it is clear, it would be a weekly meeting discussing the daily schedule?

A It's --

Q Do you understand my confusion?

A Okay. We should probably call it a scheduling meeting --

Q Okay.

A -- where Mrs. Clinton's scheduler and myself and Mrs. Clinton tried to meet to talk about the weeks -- the next day's schedule, the week's schedule and the month's schedule. We aren't as efficient as we might want to be, but that's certainly the aim.

Q Any other meetings other than the scheduling meetings that you have had there?

A On the second floor?

Q Correct.

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A We try and have a -- let's see, be at least a twice a month, although it varies depending on Mrs. Clinton's travel schedule -- a meeting that includes not only Patty Solis, but the social secretary, the press secretary, the deputy to the chief of staff, to discuss -- to review, actually, pending invitations, and to work out, you know, other issues, scheduling or whatever.

Q How about over the course of last year, how many times have you been in the third floor residence?

A Over the course of?

Q The past year.

A I think probably in September, although I am not certain exactly when, of '95. September and October and November I've probably been there the most, because this was during the period that Mrs. Clinton was working on her book, and so she was -- she was there quite a bit.

Q Okay. You said she was working on the book in the computer room on the third floor?

A Right.

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Q What is the physical location of the computer room?

A I'm sorry?

Q What was the physical location of the computer room she was working in?

A It's the room next to the book room.

Q Is it catty-corner or next to it?

A Well, it's -- there is a corner. I am bad at directions, but this would be the book room.

Q That will not show up on the transcript. Do they intersect at a right angle or are they --

A They don't intersect at all. They are two separate rooms; they are two separate rooms.

MR. PORTNOY: Do they share a common wall?

THE WITNESS: One is on -- yes, I'm just trying to -- because there is an exercise room.

They share a corner, but not a common wall. They share a corner but not a common wall.

MR. O'CALLAGHAN: Here is a schematic for you and your counsel.

MR. DENNIS: What is this? The third floor plan, I show that on the bottom.

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BY MR. O'CALLAGHAN:
Q I show you a one-page document which is a floor plan for the White House. And I think it is an antiquated one, so I don't think all the walls that are -- that appear there are necessarily still there. I think it is actually a floor plan from the Truman presidency, was the most recent one we could get. So it is the third floor and there are a number of demarcations in the different rooms.
A I wouldn't know them by numbers. But hey, what about that (indicating)?
Q I would like to get first your description of it. I am not sure.
A Okay.
Q And we can read this together.
A Okay. Get me to where the elevator is on the third floor.
Q That's where I'm not sure. If you look at the shape of the White House, it is a square with a round portion in the middle, which I believe is the south side of the White House. And there is a room there that says sun room, I think, and it says 337;

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that may be the solarium, I'm not -- maybe that will help your frame of reference.
A Okay, that helps, yes. Okay.
So, this is all corridor.
Q You're pointing to the middle?
A Yes, this is all corridor.
Q It says corridor?
A Right, and I am just trying to locate the elevator, because that would help me to show -- but let me just say that my -- this -- guys, I'm really not sure on this print, but let me tell you what I think. 31 --
Q 95?
A 3195, if this is the solarium.
Q 3195 would be on the eastern portion of the building, but I don't know if that helps or confuses. Actually it would be the western wing, excuse me the western part of the building.
A This is my worst thing, maps. Okay. I am just going to do my best here.
Q Sure.
A If this is 319A and if this is the

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elevator --
Q That's the box which has a penthouse door and roof above it, 336, which you said might be the elevator?
A Yes, I am trying to find you.
MR. PORTNOY: The part of the map to which Ms. Williams has pointed is typical of the depiction of an elevator on a floor plan, so her judgment may be correct.
MR. O'CALLAGHAN: And stairs next to it, too.
THE WITNESS: Okay, that makes sense. So this 319A would be the book room.
BY MR. O'CALLAGHAN:
Q Okay.
A And this room next to it, although I can't figure out what number it represents.
Q 323?
A Well, maybe all that is 323.
Q On the south side underneath where it says promenade?
A Yes, if I am looking at -- yes.

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This would be the -- I'm sorry. This would be the computer room, and so -- right, and then this would be a -- if this is -- this is -- there is a little hall here.
Q You're pointing to what number?
A 354 seems like a little hall, 352 there is a bathroom.
MR. PORTNOY: That's also consistent with the diagram.
THE WITNESS: Yes, that is right.
Then there is a little stretch of hall across. And this room, I believe, 3 -- I don't know if it is 322 or 351.
MR. PORTNOY: That appears to be 322; 351 appears to be a closet.
THE WITNESS: I think that's an exercise room and --
BY MR. O'CALLAGHAN:
Q All these walls may be there now.
A Yes, that is the exercise room.
Q Is it larger than what appears on the map, do you think?

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A No. There is the bathroom -- I know there is a bathroom; I know there is a hall here.
Q That opens up to an exercise room?
A There is -- all this is hall -- where I am showing this red here -- all this is hall and there is a room here.
Q 354 to 353, right?
A There is a room here. Actually, I don't remember what's in it. For some reason I think -- I don't remember what's in that room.
Q That's 322.
A And this is an exercise room, I don't know what the number is here.
MR. PORTNOY: Is that 345 that you are pointing to?
THE WITNESS: I am trying to follow it myself.
MR. O'CALLAGHAN: That would be the corner of that portion of the building.
THE WITNESS: Right.
This is all purely guesses based on this diagram, I have to tell you.

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MR. DENNIS: Can I ask, because I am a little confused; I thought the question was to locate, at least essentially, two rooms. One was the book room and the other was the computer room. Do you see the compute -- what you now call the computer room?
THE WITNESS: I think that's 323.
MR. DENNIS: 323 is the computer room and what shows on the diagram as 319A, you think, is where the book room is, what you are calling the book room.
THE WITNESS: Right.
BY MR. O'CALLAGHAN:
Q You know there is an exercise room off of that?
A Somewhere.
Q Adjacent to the book room?
A Adjacent to a hall that gets you to the exercise room, a short hall.
And that's --
MR. DENNIS: That way we can keep the numbers, because some of that may be very

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speculative, the rooms, the walls may change.
MR. PORTNOY: If I could ask one clarifying question.
MR. O'CALLAGHAN: Sure.
MR. PORTNOY: Is the exercise room in the corner of the building or is it not in the corner?
THE WITNESS: Well, it is in the corner, but I have never really viewed the whole exercise room. I know the bathroom and I know looking in there --
MR. PORTNOY: You don't know if it has windows on two separate walls?
THE WITNESS: I don't know. I can't remember.
BY MR. O'CALLAGHAN:
Q Have you ever used the exercise room?
A No.
Q Can you get to the exercise room through any other entrance other than going through the book room?
A That's the only one I knew of.
Q Who uses the exercise room that you know

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of?
A Anyone who is staying on the third floor, guests, the First Family.
Q Does the First Family use it on a daily basis?
A I wouldn't know that.
Q Do you have any idea how regularly they use it?
A No.
MR. DENNIS: Can I have my client perhaps write on this particular document "book room" and "computer room," so at least those two I can establish without having to refer back and forth.
MR. O'CALLAGHAN: Sure.
THE WITNESS: Okay.
MR. DENNIS: Just those two.
(Witness complied.)
BY MR. O'CALLAGHAN:
Q You said generally you thought September and October and November of 1995 you spent more time on the third floor in the computer room assisting the First Lady?

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A In the computer room or in the book room.
Q What type of assistance were you lending her with the book writing?
A I was reading and being critical of her drafts.
Q You were providing editorial assistance?
A Some might call it that, yes. Yes.
Q Were you doing any of that work before September of 1995?
A No.
Q How do you know you weren't doing work on that before September?
A Well, I know in August I was on vacation the last few weeks -- September -- the last few weeks of August.
And then I know the first week of September she was in Beijing, so we very much focused on that.
Q Did you do any work on it before you went on vacation; did you help her out with that?
A No. No.
MR. PORTNOY: Do you know if she was working on the book in the book room prior to your

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vacation?
MR. O'CALLAGHAN: I thought you said she was working in the computer room.
THE WITNESS: Computer room.
BY MR. O'CALLAGHAN:
Q Before you went on vacation, was she working on the book?
A She could have been. I just don't recall it.
MR. DENNIS: Is the question whether or not my client was working with her on the book prior to my client's vacation and the First Lady going to Beijing, or is the question whether or not the First Lady was working on the book prior to the vacation?
BY MR. O'CALLAGHAN:
Q The question I asked: Were you working on it prior to you going on vacation. And I think you said --
A No.
Q Then Mr. Portnoy asked had the First Lady been working on the book before you went on vacation in August?

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A And I said -- I can't speak to that. I can't speak to that.
Q Do you know when she first started working on the book?
A May and June. May and June, but that doesn't necessarily mean that she was working on it in the computer room at that point.
Q Just so it is clear, May and June of 1995?
A Yes.
Q What makes you think she started working on it at that time?
A Just because I know that she was looking for materials, looking for reports and things. I had very little involvement with the book before, you know, September.
Q Is there anyone else who was working with her on the book?
A I don't know all who she talked to during that period. I only know -- Becky Saletan, her editor, for sure.
Q This will probably help you also focus in, whether there was anyone working with her on the book

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on the third floor?
A Becky Saletan, her editor.
Q Anyone else?
A She had a lot of people in and out. I don't know if they were working on the book or guests, but I do know Becky Saletan, for sure, her editor was there.
Q Anyone else she told you was helping her work on it?
A In September, I know it was Lisa Muscatine.
Q And who is she?
A She works in speech writing.
Q Anyone else?
A That's all I can think of, that I knew about. That's all I can remember. As I said, I -- she's -- I got to the book at the draft point. I wasn't really so much involved before September.
Q When you started working on it in September in the draft form, had the main body of the book already been written, or was there still writing going on?
A There certainly was still writing going on

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that she was doing, but, you know, there were parts of the book, I mean, that had been written.
Q You were reviewing and editing, how many pages would you say had been drafted?
A I don't know.
Q A hundred, less than a hundred?
A There were a lot of pages.
Q So a considerable amount of work had already been done on the book?
A There were a lot of pages.
Q Were these in computer form; were they handwritten, computer form?
A Both her handwriting and some typed.
Q Was some of the information stored in the computer, in the computer room?
A Yes.
Q Do you know if it was on the hard drive or on disks?
A Oh, probably both. I don't know.
Q Do you know how much time the First Lady spent working on the book in July and August of 1995, in the computer room?

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A No.
Q Just generally, this may help, during July and August of 1995, do you know if the First Lady was working on the book on a daily basis, once a week, twice a week?
A I don't know, because I was in my office. Like I said, we had quite a lot to do.
Q Generally you are pretty familiar with her schedule during that time period; July and August?
A Yes.
Q Generally you know what her schedule is because you work on it?
A Except I don't -- in terms of what her private time is is really her private time, how she uses it.
Q Did you have any discussions with her during that time period about work she was doing on the book?
A Yes, I always would say how is it going.
Q And she said she was busy working on it?
A She said it is going, it is going.
Q Did she do any work on it that you are

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aware of other than in the computer room?
A I don't know. I wasn't there.
Q These are all questions, I am just trying to see what your knowledge is.
A It was reported that she was working on it during her vacation in Wyoming or something.
Q And when was that vacation?
A I would have to check. I don't know exactly, but --
MR. PORTNOY: I understand that would have been mid-August of 1995, although I don't have the exact date.
THE WITNESS: It could have been. Whenever they --
BY MR. O'CALLAGHAN:
Q It probably was a good time for you to go on vacation, when she was on vacation?
A No.
Q Or no. Were you on vacation the same time?
A We may have overlapped a day, but I think I went after her. I am not sure. I have to check my calendar.

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Q Did the First Lady do any work on her book in the book room?
A Not when I was there.
Q How about when you weren't there, do you have any knowledge of whether she worked on it?
A No. There was a fax machine there.
Q In the book room?
A Yes.
Q Did you ever use that fax machine?
A No. Her editor used it, so I may have taken something out of it.
Q You might have retrieved the documents for the editor from it?
A Yes.
Q Do you have a specific recollection of doing that?
A No.
Q And that's -- the editor's name was -- what is it again?
A Becky Saletan, S-a-l-e-t-a-n.
Q Was that fax used for receiving documents for anyone other than her editor?

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A I don't believe so. As I understood it, it was Simon & Schuster's.
Q It was their fax machine?
A Yes.
MR. PORTNOY: Off the record.
(Discussion off the record.)
BY MR. O'CALLAGHAN:
Q Were there any materials or documents related to the book writing exercise that were kept in the book room?
A Oh, yes.
Q What type of things were stored in the book room in relation to the book?
A Oh, the drafts. That was all.
Q Is that where the drafts were generally kept?
A I don't know generally. She had a lot of them in her -- in the computer room.
Q Both in computer and book room. What else was kept in the book room?
A Books.
Q A lot of books; were there a lot of

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bookshelves in the room?
A Yes, books everywhere.
Q Could you give a general description of how that room was set up? We can narrow this down to July through August of 1995.
A Books everywhere, on shelves, maybe some books on the floor, videos.
Q Was there a TV there?
A No.
Q Any furniture?
A Oh, tables, maybe the fold-up kind.
Q Like card tables or round tables?
A Just lunch room tables, I think.
Q Any chairs that went with the tables?
A That went with them, no --
Q Or sat around them?
A It was pretty much like a storage room where people grabbed a chair.
Q Was there room to sit and work at any of the tables if you were --
A Yes, if you went and got a chair.
Q Did you do any of your editing or your

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commenting in the book room?
A Sometimes.
Q Anyone else work in there?
A Lisa, definitely, but -- work in the book room, there were people in and out of the book room.
Q Who else used the room?
A Well, there's entrances, I mean right behind the book room is the linen room, I guess.
MR. DENNIS: What period of time are we talking about?
THE WITNESS: The only period I would know about would be September.
MR. DENNIS: September until when?
THE WITNESS: October, early November.
MR. PORTNOY: I believe there is a possible confusion on the record then. Mr. O'Callaghan had asked you about the July through August time period, and I believe you have been answering based upon your knowledge for September forward. Could you clarify whether you have any knowledge as to the use of the book room, or whether you used it during the July through August time period?

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THE WITNESS: No, the time period in which I was in the book room was September to November.
BY MR. O'CALLAGHAN:
Q Were you up on the third floor in the July/August time period, 1995?
A I don't recall. I don't recall being up there. I don't recall being up there.
MR. O'CALLAGHAN: Why don't we go off the record for a second. You can hand off the transcript.
(Discussion off the record.)
BY MR. O'CALLAGHAN:
Q Right before we went off the record, I asked you whether you had been on the third floor in the July through August 1995 time period. And you said that you didn't recall being up there, and you were continuing your answer.
A Yes, I didn't recall being up there. It is September when I remember being there.
Q From your knowledge of who has access from the room, did you spend any time in there before July and August 1995?

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MR. PORTNOY: You are speaking of the book room?
MR. O'CALLAGHAN: The book room.
THE WITNESS: The book room? No, there would be no reason to, really.
BY MR. O'CALLAGHAN:
Q Had you ever been in it before you came back from your vacation?
A Much earlier, almost in another year when it was just totally full of boxes and stuff. And --
Q Do you recall when that was; can you put a year on it?
A No, it just seemed like at the beginning.
MR. DENNIS: The beginning of the term?
THE WITNESS: The term.
MR. PORTNOY: The beginning of the administration which began in January of 1993.
THE WITNESS: Yes. I mean, it just seems to me, in the very beginning, that it was -- it was a storage room. I just remember it being that, because most of that floor seemed to be storage.
BY MR. O'CALLAGHAN:

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Q Do you know what was stored up there?
A No.
Q Do you know if gifts were kept there or documents?
A No.
MR. DENNIS: Is it no, they weren't kept there, or no, you don't know?
THE WITNESS: I just -- that wasn't my area. I don't know.
BY MR. O'CALLAGHAN:
Q So you didn't know what was in there?
A No.
Q Did there come a time when it stopped being used as a storage room?
A Well, let's see. Based on my looking at it in September, it still could have used a lot more attention before it became a real room.
Q So it still had some boxes and stuff in it in September or --
A Yes, or in -- I don't remember everything that was in it. I remember books, bookshelves, videos, videotapes, still -- pictures that hadn't

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been hung leaning against the wall; it wasn't a room to work in.
Q Before that or -- even in September?
A Even in September, which is kind of -- I don't -- I don't know when it stopped being purely storage. I only know that in September and probably in October, when I spent more time in that room, that there were still pictures up against the wall. There may have been a couple of stacks of books someplace else. There were -- there were -- you know.
Q Did there come a time when the room was cleaned up to provide a work space for the First Lady working on the book; do you know?
A I don't know when that was.
Q But do you know if that happened? Is that why the room was cleaned up?
A I don't know.
MR. PORTNOY: If we could -- do you know if to this day the room has ever been cleaned up?
THE WITNESS: I know that the room looks different than when I first saw it at the very beginning, where it just seemed dark and full of

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boxes.
MR. DENNIS: At the beginning of the administration, you mean?
THE WITNESS: I'm sorry, at the beginning of the administration.
It request -- it had -- you know, it has nice shelves.
BY MR. O'CALLAGHAN:
Q I don't want to belabor the decorations of the room, but the first time you saw it, you said it was dark and full of boxes. Then in September when you were there, it had tables in it and there was a space where you could work at the tables; is that right -- and the drafts were kept there and the book and people working on them?
A Yes, but I do want to make clear, though, that you had -- there was a feeling you were in a storage room.
Q So it was more of a makeshift workplace, like a temporary work station; is that fair?
A Yes.
Q Do you know when the fax machine was put in

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there?
A No.
Q But it was there as of September?
A That's the first time I recall seeing it.
Q Do you know when the First Lady first began receiving faxes from her editors at Simon & Schuster?
A No.
Q Does that help?
A No, I don't know.
Q Did you see any drafts of the book before you went on vacation?
A Yes. Yes.
Q When did you see those?
A I took it with me. When I was advancing the Beijing trip was the first time I had ever read it.
Q Was that a trip to Beijing, or was that done in the U.S.?
A No, Beijing.
Q You were doing the actual physical events?
A Yes.
Q Had that --

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A Was that Beijing or was that South America? I was in a foreign land.
Q You don't recall which?
A No. I mean, I am sure if I look at my calendar I can, but I remember I just -- I remember being somewhere else. I remember being in a hotel room, reading.
Q If we need to ask you at a later date, maybe ask you to refresh your recollection with a calendar, Counsel, if you could, just to put yourself in time and place as to when you were reading for the first time, the draft of the book.
A All right.
Q To your recollection, had the draft been worked on by anyone else, did you have a fresh copy; do you know whether it had been worked on by the editors yet?
A I can't remember. None of them ever looked fresh. They were always scribbled on. That's my general recollection.
Q Do you recall if it was on fax paper or -- copied on fax paper?

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A No.
Q I am just trying to ascertain as to whether -- if you were working on a draft that had already been edited by Simon & Schuster.
A I have no idea.
Q Okay. And you were talking about September -- your knowledge of that area -- the book room, the computer room -- is based generally on the time period September, October, November?
A October mostly, but yes.
Q Is that the same thing for the computer room, or had you been up there previously?
A Oh, well, before it was the computer room, it was the room where I put Vince Foster's documents.
Q And when was that?
A The personal documents. I would have to refresh my memory.
MR. DENNIS: Under Nussbaum's direction.
THE WITNESS: Right.
MR. DENNIS: It was Thursday the 22nd.
THE WITNESS: 199-.
MR. DENNIS: '93.

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THE WITNESS: '93.
MR. DENNIS: July.
MR. PORTNOY: That would be July?
MR. DENNIS: Thursday, July 22, 1993.
BY MR. O'CALLAGHAN:
Q What was in the room at the time you put the documents in there?
A Boxes.
Q So was it another storage space?
A Yes.
Q Were there a lot of boxes in there when you put the documents in?
A There seemed to be a lot of documents, correct.
Q Did you put all the documents just in that computer room, or were they put anywhere else?
A When I came from the west wing, they -- the box of files were put into a closet in the computer room.
Q Did that closet have a lock on it?
A It -- there was a key to it.
Q Did you lock it after you put them in or

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did it stay open?
A I assume that either I locked it or Carolyn Huber locked it.
Q Did she bring the documents up there with you or did she accompany you?
MR. PORTNOY: Mike, could we go off the record for a second.
(Discussion off the record.)
MR. O'CALLAGHAN: Why don't we go back on the record.
BY MR. O'CALLAGHAN:
Q I guess I asked you if Ms. Huber accompanied you when you brought the documents up to the room.
A As I recall, she either came with me to the room -- because she had to show me where the closet was.
Q Did she have to unlock the closet? When you got up there, was it open?
MR. DENNIS: I think she has been asked this before. I think we've -- if for some reason her previous deposition isn't adequate on it at this

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point, maybe we can explore it further; the detail as to who locked the closet, who unlocked the closet, was Ms. Huber there, where in the closet was the box placed, in great detail.
BY MR. GIUFFRA:
Q I will be happy to move on. I don't want to duplicate what you've already testified to.
Other than the time that you put Mr. Foster's documents in there, in July of 1993, had you been in that room any other time before September 1995?
A When I went with a messenger to retrieve the box, so he could take them to Williams & Connolly.
Q Any other time?
A Not that I -- not that I recall. If I was on the third floor, I generally would be going to the solarium.
Q When you gave the documents to the messenger, were any documents in a box taken out and put in the book room?
MR. DENNIS: She's testified to that as

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well.
MR. PORTNOY: I will object to that.
BY MR. O'CALLAGHAN:
Q So other than when you first brought the documents up and you went with the messenger to retrieve the box, you don't recall any other times you went up to the computer room before September of 1995?
A Yes, I don't -- I don't recall being up there.
Q Do you know when a computer was first put in there?
A No.
Q Do you know what purpose a computer was put in there for?
A Well, I -- I believe it was Simon & Schuster. I don't know when.
MR. DENNIS: That put the computer in the computer room?
THE WITNESS: I believe, yes.
BY MR. O'CALLAGHAN:
Q So the computer was put there for use for

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the First Lady to work on her book?
A I think she was supposed to learn how to use it.
MR. DENNIS: To work on the book?
THE WITNESS: Yes.
BY MR. O'CALLAGHAN:
Q Was this in the spring or the summer of 1995?
A I don't know when.
Q Was there anyone that helped her try to learn how to use the computer in the computer room?
A I don't know.
Q Do you know if any meetings were generally conducted up in the book room?
A Are generally?
Q Are you aware of any meetings that have occurred in the book room last year?
A Well, I do know in September and in October and for sure in December, when Mrs. Clinton was working on the book, that if we needed to have a discussion with her about anything -- I mean Christmas, I remember the day that we did Christmas

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cards in the book room; we did Christmas stamps in the book room; we -- this was making selections, because we were in the height of the Christmas season. So November and December, you know, would have had -- Ann Stock and other members of our staff would have been there.

MR. DENNIS: This is 1995?

THE WITNESS: Oh, yes, I'm sorry.

BY MR. O'CALLAGHAN:

Q September as well?

A I don't recall specifically, but I do know based on what our Novembers are like, before the Christmas season.

MR. PORTNOY: Can we go off the record for a second.

(Discussion off the record.)

MR. O'CALLAGHAN: Back on the record.

BY MR. O'CALLAGHAN:

Q With regard to entry into the second and third floor of the residence of the White House, do you normally have to register with anyone before going into the residence?

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A The guards at the -- on the ground floor.

Q You have to sign in on a sheet or do you have to show an ID?

A Yes, you have your -- well, I just wear my ID. It is not a very big show of one.

If the -- you know, if the guard is familiar with you, they will just write your name. If the guard doesn't know you, they will yell what is your name and where are you going.

Then generally you stop again at the usher floor and the usher comes out to see who is in the elevator.

Q So is that still on the first floor?

A No, that's -- well, there is a ground floor which is the first, I guess log in, and then it stops on the first floor, the elevator.

Q Okay.

A And the ushers come look out.

MR. DENNIS: Is the first check-in on this ground floor, is that the Secret Service, or do you know?

THE WITNESS: Whoever the guard is, if it

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is Secret Service, I don't know.
BY MR. O'CALLAGHAN:
Q When the ushers check on the first floor, do they take down names or do they ask who is there or do they accompany you where you are going?
A It just depends. Sometimes they accompany you. Sometimes they stop and look and I don't know where they go and write, whatever, but the office is right there next to the elevator.
Q Once you leave the first floor where the ushers are, if you go up to the second floor, is there any one who checks on who's coming up to the second floor?
A No, there is not a Secret Service person there.
Q How about between the second and third floor?
A There is no Secret Service person there.
Q Once you get to the second floor, you can move freely about the second floor?
A I wouldn't say freely.
I mean, you generally know if you are going

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to go in -- it's somebody's house, so while you may have a specific thing to do in the house -- I mean, people are pretty respectful. So either I know I am going to see Mrs. Clinton in the west sitting room or the dining room, or if there is a tea in the yellow office -- I mean, it's -- you have to be there for some reason, you just don't wander in.
Q As far as registering or checking with people before going to the second and third floor residence, that happens on the ground floor and the first floor; is that right?
A Yes.
Q Do you have to identify where you are going to, where your destination is, either -- is it called a checkpoint, for lack of a better word?
A I don't know if you have to. I generally always do. I say second floor, I say third floor, usher's office, you know.
Q Do people normally accompany you once, or once you check in do you just go up and go about your business?
A It just varies. I mean -- but at this

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point, no, probably not so much.
Q When you go up to the second and third floor, you don't have someone escort you and bring you to your destination or do you?
A No.
Q When you check in with the Secret Service or whoever the uniformed people are on the ground floor, do you write your name in on the log or do they write your name in?
A They usually write it in. I mean, that's all I know, they write it in.
Q And when you leave the residence, do you also check in with the usher and the Secret Service folks?
A Right, you can't really leave and not --
Q See them?
A Yes.
Q And do they mark your time in and time out?
A I -- I imagine they do.
Q Do they ask you to write your time in and also to write your time out?
A You don't write. They do that.

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Q So you don't do any writing on the logs?
A No.
Q Because here in the Senate we sign in.
A No.
Q I would like to ask you some specific questions about a couple of days in August, with regard to your visits to the second or third floor of the residence. And just first without the assistance of any documentation or anything that might refresh your recollection, just independently, do you recall going up to the second or third floor in and around the first two weeks of August?
A As I said before, if Mrs. Clinton were there, it wouldn't be unusual for us to have had a meeting with her, a scheduling meeting.
Q Just -- this might help, too. Do you recall meeting with her on the second or third floor of the residence, before you went on your vacation, shortly before that, matters to clean up before you left or --
A Oh, I am sure before I went on vacation and before he went on vacation that we probably met, but

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generally we meet on the second floor west wing. I'm sorry, not west -- well, it is the west sitting room.

MR. DENNIS: Do you recall whether you were on the third floor that period though?

THE WITNESS: No. I don't.

MR. DENNIS: In July and August.

THE WITNESS: Right.

BY MR. O'CALLAGHAN:

Q I am going to show you a document, which is a one-page document. I will give you a copy, and counsel and Mr. Portnoy.

MR. PORTNOY: Thank you, sir.

MR. O'CALLAGHAN: Certainly. Once you have had a chance to review it, let me know and I will ask you some questions about the document.

THE WITNESS: Okay.

MR. O'CALLAGHAN: Counsel, are you okay?

MR. DENNIS: Fine.

MR. O'CALLAGHAN: I am going to identify the document for the record; there is a Bates stamp S 020026 -- it is kind of upside down.

THE WITNESS: Okay.

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MR. O'CALLAGHAN: It is a log that appears -- says "F-1 movement log" on the top, and it is a chart with columns and rows, reads "Thursday" in handwritten notation on the right-hand side, 8/10/95 page 1 of two.

Then there is a -- in the left-hand column, far left-hand column appears to be a column identifying individuals. First two entries are the President and First Lady, which were typeset, and then there are a bunch of handwritten names which appear. And to the right of those names are a number of columns, which read up, down, up, down, up, down across a series of columns.

And then the final column on the sheet reads location. Then there generally -- actually on every occasion there is handwritten location, which appears to be a destination.

The first question -- every time I show someone a document I ask if you have ever seen this before.

THE WITNESS: No, I have not.

BY MR. O'CALLAGHAN:

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Q Also for further identification purposes, I would like to point out on the bottom it says United States Secret Service. I can represent to you this is a Secret Service log for movement within the White House residence; this is for August 10, 1995. And there's -- the seventh entry down, listing for individuals, there is a notation there which I believe reads Maggie Williams, and has up 1438, down 1505.

And my first question is, does this help refresh your recollection as to whether you went up to the residence on August 10, 1995?

A I don't know the exact date.

Q This may help also; above the entry which reads Maggie Williams, there is an entry that says Patty Solis with the same entry up and down times, 1438 and 1505. Does that help you recall whether you went in there with Patty Solis?

A I don't remember exactly, but it looks like it would be our scheduling meeting.

Q Who else would normally attend those meetings?

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A Just Patty and I, if we -- you know, just Patty and I generally. We have a bigger scheduling meeting, as I said, maybe twice --

Q That would be with the First Lady; is that right?

A Right.

Q And then to the right of that it says second floor, under the location for both your names.

Does that help refresh your recollection more than you have already stated?

A No, that's pretty typical.

Q Did you go up to the second floor of the residence with Ms. Solis in August, for anything other than a scheduling meeting?

A No. What time was it? I was going to say maybe we got lunch.

Q It appears to be 2:38 to 3:05. I am not great at military time, but I think that's right. And also to help you out with representing that day, I just noticed on the first column, or the column in the top row which reads "the President." It has him

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coming down on the fifth entry next to his name, says 1437, which would have been right around the time that you went up. Do you recall seeing him that day?

A No.

Q Would that generally stand out in your mind?

A No, it wouldn't.

Q Do you see him pretty frequently?

A See him in the hall.

Q And just -- do you recall on -- again using this as a reference, and with anything else you can call to mind -- whether on Thursday, August 10th or at any time before you left for your vacation, you went up to the third floor or went up to the book room?

A No. I don't recall, not at all.

Q Do you know if Ms. Solis did?

A No. No, I don't recall.

Q This is an additional log, it's been produced to the committee as well, and it is for the same day. And I believe this is a usher's log. And I will identify it for the record it is a one-page

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document on White House stationery, Bates stamp 020025.

And it says Thursday August 10 and has a -- on the left-hand side it has the number of times listed, and then next to that it has a number of end Fridays identifying individuals. And this is a log kept by the ushers office at the White House. And there is a 2:45 entry, almost halfway down the page, which says Maggie Williams, Patty Solis, to second floor down 3:00.

It has a slightly different time period, which may be with regard to the way the ushers kept time and the how the Secret Service kept time, how much precision was used; do you recall whether you spent more than 15 minutes in a scheduled meeting on August 10 on the second floor?

A I don't recall the exact number of minutes. But -- I don't recall the exact number of minutes.

Q I am going to show you another document; this one is two pages. It is another Secret Service log, if you want to see it, Counsel. Would you like

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a copy? And Mr. Portnoy, here is a copy.
While you are looking at it, I will describe it for the record if that's okay. It's a two-page document, again F-1 movement log, and Bates stamps are S 020328 through 020329. Again, this is Secret Service log for entry and exit, similar to the one, the F-1 movement log I previously described with the rows and columns for individuals to the left, up and down time notations to right, and location to the far right. This one is for Friday 8/11/95. Let me know when you have had a chance to look at it.
A Okay, yes.
Q I guess this is the following day from the day I just showed you. The first one was Thursday, August 10, and this one appears to be Friday, August 11.
Do you recall going up to the second floor of the residence on Friday, August 11?
A Not necessarily, but --
Q On the left-hand side of the chart it reads -- there is an entry which reads Maggie Williams, 1420, then it has down at 1600, which is a

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little more than an hour and a half. Does that help refresh your recollection as to whether you were there on a Friday for an hour and a half, from 2:20 to approximately 5:00?
A It's possible. I mean -- it doesn't surprise me.
Q Above that there is an entry that says Bob Barnett, says 1420 to 1500. Do you recall going into the residence with Mr. Barnett in August of 1995?
A I don't recall it, but it doesn't surprise me.
Q Who is Bob Barnett?
A Bob Barnett was Mrs. Clinton's legal adviser or lawyer, I guess, at Williams & Connolly, before David Kendall.
Q Have you gone up to the residence with him on more than one occasion?
A Yes.
Q During the August time period, do you recall going up to the residence with him on more than one occasion?
A No, I don't. No.

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Q I just showed you a log which showed your Thursday meeting or -- Thursday entry with Patty Solis, where you thought that might have indicated a scheduling meeting with Patty Solis and the First Lady. Before you went on vacation, do you remember having a scheduling meeting with Ms. Solis and the next day going up to the residence with Mr. Barnett?

A I don't remember exactly but --

Q Do you have a general recollection?

A Could -- I could have.

MR. DENNIS: But the question is: do you recall it independent of these logs, do you have a recollection of actually --

THE WITNESS: No, I don't have a recollection, independent recollection, no.

BY MR. O'CALLAGHAN:

Q When did you go on vacation in August? You said you consulted your calendar when you came in; I wonder if you remember.

A I want to say it was either the 20th or the 21st of August.

Q Would it be unusual for you to spend an

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hour and 40 minutes up in the residence?

A No.

Q Why is that?

A I might be talking with Mrs. Clinton; I might -- depending on what was going on in the residence, if we had any occasion that we were doing in the residence, I might be up there for that. It wouldn't strike me as unusual to be there for an hour and a half.

Q I think I misspoke on the record earlier. I said if you remember being there from 2:20 to 5:00, actually it was 2:20 to 4:00.

MR. DENNIS: 1600.

MR. O'CALLAGHAN: I wanted to be clear on that. I told you I had trouble with military time.

THE WITNESS: I see.

MR. O'CALLAGHAN: That's the problem with that.

BY MR. O'CALLAGHAN:

Q Do you recall being in the meeting in or around August 11, 1995 with Mr. Panetta and Mr. Barnett in the residence on the second floor?

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A I don't -- I don't necessarily recall it.
Q Just -- I want to point out the log shows Mr. Panetta also went up about 1450, half an hour before you did, but left at the same time, at 1600, and whether that refreshed your recollection going up early with Mr. Barnett and coming down later with Mr. Panetta?
A I don't necessarily remember that.
Q Do you have a recollection of any meetings around August of 1995 that involved Mr. Panetta and Mr. Barnett?
A Well, I can think of meetings that involved them individually. It doesn't -- I don't have a recollection of meeting with the two of them together in August.
Q Did you meet with them separately up in the residence?
A I don't recall that, meeting with them separately -- oh, in the residence.
MR. DENNIS: Are we talking about this occasion on the 11th?
MR. O'CALLAGHAN: I am talking about

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generally in that time period, then if you have a specific recollection on the 11th, I am using this to help you remember.
THE WITNESS: I don't have a specific recollection on the 11th.
I do have a recollection of definitely talking to Bob Barnett about book stuff, book advice. He -- Kendall was the lawyer in the book issues, but Bob certainly had experience in this area, in books and publishing.
And so I'm certain that at some point or another, I don't remember if it was August exactly, but having a conversation with Bob Barnett and Mrs. Clinton, about -- about the book. It strikes me as a conversation I had. I don't know when, but it strikes me as a conversation I had.
BY MR. O'CALLAGHAN:
Q Do you remember if it was before you went on vacation?
A It could have been before I went on vacation.
Q Do you remember?

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A I don't remember specifically.
Q Where did that conversation take place?
A I don't recall specifically where it took place. But it -- I don't recall specifically where it took place.
Q Did it take place in the residence?
A But it could have been in the residence. Do I recall? I recall a conversation with Mr. Barnett and with Hillary on -- just an array of book things and, you know, good publishers, bad publishers, all kinds of things.
Q Was it in an office or more relaxed atmosphere, just to help you remember?
A Well, it is always pretty relaxed with Bob Barnett.
Q You understand what I am getting at?
A Yes, I know. I don't have a precise recollection of where. I do have a recollection of a conversation with Bob Barnett and Mrs. Clinton.
Q Was she working on the book at the time or -- I mean literally working on the book; were there drafts around or --

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A I don't -- I don't know. I don't know if she was specifically, in August, when she was -- what she was doing with the book, but I remember having a conversation with Bob Barnett.
MR. DENNIS: But was that in August necessarily?
THE WITNESS: I think it was in August. I think it was in August.
BY MR. O'CALLAGHAN:
Q Was it a long conversation, a quick one, it involved --
A I don't specifically recall except I do remember having a conversation with him.
Q Did you talk about what assistance you might lend her getting the book ready?
A What? I'm sorry.
Q Was there any discussion about what assistance you might lend her in getting the book ready?
A None in August, no.
Q Do you recall a meeting with Mr. -- being in a meeting with Mr. Panetta in August?

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A Meetings with Mr. Panetta?
Q Specifically in August on the second floor of the residence, in the residence?
A I have been at meetings with Mr. Panetta in the residence on more than one occasion, so --
Q I will try to ask one more time just to make sure we flesh this out. Do you know, looking at August 11, 1995, the log which shows you going up with Mr. Barnett and coming down with Mr. Panetta, whether that helps refresh your recollection as to whether you had a meeting with Mr. Panetta that day, or you were at a meeting with Mr. Panetta?
A It does not refresh my recollection.
Q Were you ever on the third floor with Mr. Barnett?
A I remember around Christmastime, maybe December.
MR. DENNIS: What year?
THE WITNESS: 1995, I think. Well, just -- 1995. I want to say December, maybe.
(Discussion off the record.)
MR. O'CALLAGHAN: Why don't we go back on

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the record.
BY MR. O'CALLAGHAN:
Q Right before we went off the record, so you said you met with Mr. Barnett on the third floor around Christmastime. What was that in relation to?
A It's just for some reason, I saw him on the third floor, and I believe it was Christmastime, because he was asking me where I was spending Christmas.
Q Do you recall where you saw him on the third floor?
A My recollection is that I saw him in the hallway.
Q Other than him asking you what you were doing for Christmas, did you have any other discussions with him?
A No, I just have that picture in my head.
Q Where in the hallway on the third floor was it; was it near the computer room; was it near the solarium, in the book room?
A It could have been the hallway of the solarium, the hallway leading to the solarium.

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Q Was it in the hallway leading to the solarium?
A There are photos -- yes, the hallway in the solarium.
Q What were you doing up there?
A I don't know.
MR. O'CALLAGHAN: Let's go off the record briefly. I will be back in two minutes.
(Discussion off the record.)
MR. O'CALLAGHAN: Back on the record.
BY MR. O'CALLAGHAN:
Q I refer you again to 8/11/95, August 11, 1995 records. I would also like to direct your attention to the second page of the document. And the last entry there says VP Gore and it says "up 1438, down 1559," which is a period of time you appear to have been at least on the second floor of the residence. Do you have any recollection whether you saw Vice President Gore in the residence?
A No.
Q That same day Mr. Barnett and Mr. Panetta were there?

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A No, I do not.
(Mr. Dinh entered the deposition.)
BY MR. O'CALLAGHAN:
Q With regard to the two sets of records, the Secret Service logs and the usher's logs. For the periods of July and August, these appear to be the only entries or -- entries in the Secret Service logs and the usher's log to show you went up to the residence. And you already testified that you believe you went up there once or twice a week, and I want to ask you if you knew why it would be that these entries would be marked and possible other entries wouldn't be, or if you hadn't gone up once or twice a week during that time period?
A Well, as I said in the beginning, we tried to do this at least once or twice during the week. But we can either do it on the phone or Patty Solis will call me and say I don't have anything on the schedule, do you have anything you need, or we will say let's save it all for another -- so it just -- it just depends.
Q Just to help refresh your recollection,

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July of 1995 there were hearings going on here in the Senate with regard to Whitewater matters; does that refresh your recollection as to whether you went up to the residence more than is indicated in the logs I have just shown you?

A That only indicates to me I was spending more time with my lawyer. Was I in those hearings?

MR. DENNIS: Which hearings?

THE WITNESS: But, no it doesn't have any --

BY MR. O'CALLAGHAN:

Q Are there ever times when you go up into the residence where your entry is not noted by Secret Service agents?

A Well, I don't know that.

Q Every time you go by, do you show them the badge and they log it in, or can you sometimes just walk in and -- is he more relaxed or do you have to check in with them every time?

A There is always a guard there.

Q Do you always display your ID to them or do you just walk in?

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A My ID hangs around my neck all day. It is always on display.

Q Are you familiar with the Secret Service guards that are located at the entrance to the residence?

A Some, some not.

Q Do they know you by name?

A Some, some not.

Q If there was an agent there who didn't know you by name, would you have to show them your badge to show you who they were?

A They would definitely ask me, yes.

Q Do you know of any times when you have been at the residence when your entrance hasn't been marked by Secret Service agents?

A I wouldn't know that.

MR. DENNIS: Mike, maybe I can clarify because I have been up a couple of times. When you go up into the residence, you will see the guard and he will greet you, hi Ms. Williams. He wouldn't know me in particular, but you don't see him with a pen writing something down. If they make an entry they

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just make it, you don't see them make it. You don't sign it, you don't know what's going on. It is not like going into the White House you have to show your identification get logged in and logged out.

Then when you go up to the elevator to the floor where the ushers are, the usher will come out or someone will come out and they will greet you and you will go on your way. Whether they go back in their office and make an entry -- it is not as formal a check point as it would be when you are going into the -- what do they call that where you go in and out of the White House itself.

THE WITNESS: One of the gates I guess.

MR. DENNIS: It is not called the log-in, it is actually an acronym. I didn't realize that.

THE WITNESS: I don't know.

MR. DENNIS: What happens when you call down to have my name put in the computer?

MR. PORTNOY: Waved in.

MR. DENNIS: It is not like that at all. When I go up, I don't know whether that agent -- in fact, I didn't know until these hearings that

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anything was being logged in or logged out when I was going up to the residence, so it is not obvious to the person. Ms. Williams may know, but I could not tell that I was actually being logged in or logged out.

BY MR. O'CALLAGHAN:

Q You spoke earlier about a meeting they had with Mr. Barnett and the First Lady where there were discussions about the book; is that right?

A I said I remembered a conversation about the book.

Q Your recollection is that was in August; is that right?

A I think it was in August.

Q Other than Mr. Barnett and the First Lady, was anyone else present in that discussion?

A No. I don't recall. I don't recall anybody else.

Q Was Mr. Panetta there?

A I don't recall.

MR. PORTNOY: I'm sorry. Was that that you don't remember whether he was there, or you

affirmatively remember he was not there?
THE WITNESS: Oh, I -- I don't remember a meeting with Leon Panetta, Mrs. Clinton and Bob Barnett.
MR. PORTNOY: Thank you.
BY MR. O'CALLAGHAN:
Q Do you remember a discussion when all three of them were there?
A No, I do not.
Q Again, I just asked you about whether you remember seeing the Vice President in the residence in August of 1995, and I pointed out to you that the time appears to have been 1438 and 1559, appears to correspond with part of the time that you were in the residence. And just to flesh out more fully your recollection, that also appears to be the time that Mr. Panetta was there, and also part of the time that Mr. Barnett was there.
Do you recall seeing the three of them together in the residence during that time period?
A No, I do not.
Q How many times have you seen the Vice

President in the residence?
A Over four years?
Q Over the course of the last year.
A A few times.
Q Do you recall seeing him in the summer of 1995?
A I don't recall.
Q Other than discussions regarding the First Lady's work on her book that involve Mr. Barnett where you were present, were there any other discussions that occurred during that time period, during that meeting?
A What I remember is that conversation about the book, and what I remember was conversation about the book and about publishing in general.
Q Any other discussions occur?
A What I remember is a discussion about the book and publishing.
Q Just so you understand the question -- I may not be being clear -- were there -- I know all you remember -- you are saying you remember the discussion about the book and publishing.

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Were there other discussions that you don't remember? That was just --

MR. PORTNOY: You mean does she recall having discussions but not remember the subject?

BY MR. O'CALLAGHAN:

Q Do you remember there were discussions, other than discussions involving the book and publishing, or is that the only thing they talked about?

A That's all I remember.

Q Do you understand what I am trying to get it? I am trying to understand whether -- I understand you are saying under the discussion about the book and publishing --

MR. DENNIS: Mike, I don't think you can make a distinction like that. If she doesn't remember, and I think she has told you what she remembers, I don't see how you can remember having a different conversation, not remembering the subject; is that the import of your question? There was a conversation but there --

BY MR. O'CALLAGHAN:

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Q There was a -- I will have discussion with people and I will remember talking with them about one subject and I remember talking with them about more things, but I don't remember what that is. Do you remember if there were other things discussed other than the book and publishing?

A No, I do not.

Q As far as your recollection, the only discussion centered around the book and publishing?

A Yes.

Q Did you go there to meet with him just about the book and publishing?

A I don't recall.

Q Would this be your assumption, seeing that that was the only discussion you were aware of?

A Yes, that would be my assumption.

Q Were you present during all the discussions, or were there discussions that went on when you weren't there, or did you go up and down with --

A Well, as I said before, what I remember, and I don't remember it on August 11, but I remember

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at some point there was a discussion between Mrs. Clinton, Mr. Barnett and myself about books and publishing, that's what I recall.

Q Were you present during any discussions or meetings that occurred in July or August of 1995 that involved discussion of the Rose Law Firm billing records?

A Oh, no. Not at all.

MR. PORTNOY: What was the time frame on that? I'm sorry.

MR. O'CALLAGHAN: July through August of 1995.

BY MR. O'CALLAGHAN:

Q Are you aware of any discussions that the First Lady was involved in during July and August of 1995 that involved the Rose Law Firm billing records?

A No, I am not.

Q Are you aware of any discussions that the President may have been involved in regarding Rose Law Firm billing records during July and August of 1995?

A No, I am not.

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Q Have you ever heard that the First Lady was involved in discussions regarding the Rose Law Firm billing records in July and August of 1995?

A No, I have not.

Q Have you ever heard that the President was involved in discussions involved with Rose Law Firm billing records in July and August of 1995?

A No, I have not.

Q I would like to show you an usher's log of entries and exits to the residence for the same date we just discussed, August 11. This may be of further assistance in helping you remember the events that occurred that day. If you look down, it is a one-page document, again on White House stationery, S 1020321. I would like to direct your attention to the entry which begins 2:20, which is the time demarcation. It says "Robert Barnett, Maggie Williams to the second floor."

As you continue down to 3:50, it says "Robert Barnett and Ms. Williams to the ground floor," which is somewhat at variance with the Secret Service log which you have in front of you. It shows

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the same entry, but different exit times, though the 4:00 departure for you seems consistent, at least within 10 minutes, but not so for Mr. Barnett.

My question is whether in August of 1995, you remember going up into the residence with Mr. Barnett and then bringing him back down?

A No, I don't remember specifically.

Q Have you ever brought him up and then brought him back down?

A In the four years? What's the time frame?

Q Over the last year.

A Over the last year? I don't recall specifically, no.

Q Do you have a recollection of ever bringing him up and then bringing him back down?

A Over the course of four years?

Q Yes.

A Yes.

Q And when do you remember doing that?

A I don't remember specifically.

Q Do you recall for what purpose you were bringing him up, whether it was for meetings, or were

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you dropping him off, attending meetings with him?

MR. DENNIS: Can I ask you a question, because I think your question assumes something. Are you assuming that if Ms. Williams and Mr. Panetta are in the company of one another in the residence, going up and going down, that she is actually accompanying him to visit that residence and then accompanying him out of residence? Is that what you are saying?

BY MR. O'CALLAGHAN:

Q That's not the -- it was entering and leaving at the exact same time, whether you recall doing that, that's the first question, if you remember doing that.

A On August 11?

Q Yes.

A I don't remember specifically on August 11.

Q And generally, if you arrived at the same time as someone and left at the same time, does that usually indicate you were having a discussion or meeting with that person, would the same destination be on the second floor?

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A Can you say that again, please?
Q Sure. Is it fair to say that generally entering at the exact same time as somebody and leaving the same time and the same destination is listed on the log, would it be fair to say that usually it meant you were involved in a discussion or meeting with the person who it was marked down that you entered and left with?
A No.
Q Do you know a time you entered the residence at the same time and left the same time where you were not involved with discussions with that person?
A Yes.
Q Can you specify? Did that ever happen with Mr. Barnett?
A I can't specify. I can specify an instant when I would do that. I would come up on the elevator to the second floor, Capricia might be on the elevator, and I might have a meeting with Mrs. Clinton. Capricia wouldn't be at that meeting but she might join us on the elevator down to go to

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her next destination.
MR. PORTNOY: Is this a recollection of an event or a hypothetical?
THE WITNESS: It is a hypothetical. It is clearly a hypothetical. But I thought the question itself was there -- I mean, I was trying to understand the question.
MR. O'CALLAGHAN: That's fine, you've answered it.
MR. DENNIS: Mike, there is another assumption. I want to be sure we are clear here that going to the second floor means that you are going to the same place.
I don't know whether Ms. Williams answered that. Can you clarify, Ms. Williams, whether going to the second floor means you and someone else were going to the same place?
THE WITNESS: Not necessarily.
MR. DENNIS: How many meeting places are there on the second floor that you are aware of?
THE WITNESS: Well, I don't think there are any designated meeting places but it is their home.

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So I guess they can turn any space they want into a meeting place.

MR. DENNIS: The only reason I mention that is because it does show that the President was on the second floor at 1438, and that Leon Panetta went to the second floor at 1450. And I haven't heard that the President was necessarily involved in the meeting, or any meeting, that may have involved Ms. Williams and Mr. Barnett.

I also note that he, the President, comes down at 1633, and Mr. Panetta comes down at 1600. And I think Mr. Gore, Vice President Gore goes up at 1438 at the same time the President does, and comes down 1559, which is a minute -- did you see Mr. Gore on the elevator?

MR. PORTNOY: Which is a minute before Mr. Panetta is supposed to have left; is that what you were --

MR. DENNIS: Yes.

BY MR. O'CALLAGHAN:

Q The next question is whether or not in August of 1995, generally, you recall being in the

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residence of the White House where there was a meeting involving the President, Leon Panetta, Bob Barnett, and the Vice President?

A No, I don't.

Q Do you know if a meeting like that happened?

A No, I don't.

Q Have you ever been told that a meeting like that happened?

A No.

Q So you have -- just so the record is clear, you have no recollection, after looking at the documents that I've showed you, of meeting or being with Mr. Barnett in the White House on August 11, 1995; is that right?

A Right, I have no specific recollection.

MR. O'CALLAGHAN: Mr. Dinh would like to ask a couple of questions.

MR. PORTNOY: I am going object to this.

MR. O'CALLAGHAN: Objection noted. We will go off the record for five seconds and then he will ask some questions.

MR. PORTNOY: That's fine.
(Discussion off the record.)
MR. DINH: Go back on the record.
EXAMINATION
BY MR. DINH:
Q Ms. Williams, as you know, my name is Viet Dinh and I apologize for not having been here earlier. We had hearings pending, and I had to attend those hearings.
I understand you are coming here, and we had a conversation, Mr. Dennis, that you have other engagements and you would like to get out by 5:30 or 6:00.
And when I -- I would like the opportunity to ask you a couple of questions, they will be very brief, about 15 minutes, just in order to be thorough, so that we minimize the need to get you here repeatedly.
I apologize for the staffing problems that we have. We do have limited resources for our committee, and I hope you would understand, and I hope Mr. Dennis, counsel would not object to me

asking a few follow-up questions.
MR. DENNIS: This is the way I would like to handle this. I would like to excuse Ms. Williams. This discussion should be made among counsel. Obviously Ms. Williams is not here to deal with the procedural issues that may be raised as far as this is concerned. So why don't we discuss this among ourselves, why don't we have Ms. Williams take a break, and maybe we can work it out.
MR. DINH: That would be great.
THE WITNESS: So I have to leave?
MR. DINH: You don't have to leave --
MR. O'CALLAGHAN: Off the record.
(Discussion off the record.)
MR. O'CALLAGHAN: Let's go back on the record.
EXAMINATION
BY MR. O'CALLAGHAN:
Q I would like to show you a document, which -- it is a one-page document S 020027, copy for you and your counsel and for Mr. Portnoy now. Again, it is an entry log for the date Wednesday, August 9,

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1995, which was -- and it is United States Secret Service entry next to the log. And I would like to direct your attention to an entry three rows from the bottom, which is -- indicates, it says "Maggie Williams up 1210, down 1354," and it says "second floor." And underneath that it says "Patty Solis, 1210 entry, 1340 departure." And then there is a Neel Lattimore, which is 1210, 1340, also respective entry and exit.

The first question is, do you remember going up to the second floor of residence on August 9, 1995? You have seen this document, Patty Solis is there and Neel Lattimore entering at the same time.

THE WITNESS: I don't remember this specific date, August 9th.

BY MR. O'CALLAGHAN:

Q Okay, running through, I have shown you dates for Friday, Thursday and Wednesday of that week, three successive days where you appear to have gone to the second floor of residence and twice with Patty Solis. Do you remember going up with her more than once during that week? Does that help refresh

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your recollection as to what you were doing?

A I can only refer back to the beginning of my deposition, which was that Patty Solis, the scheduler and I try and meet Mrs. Clinton; typically, we do it in the residence on the second floor. I don't remember specifically this date and this going on.

Q Okay. Who is Neel Lattimore?

A He is the deputy press secretary.

Q Do you remember going up with Patty and Neel around noontime on Wednesday the 9th?

A No, I don't remember specifically on August 9th going up with the two of them.

Q Around this time period?

MR. DENNIS: Meaning in August.

BY MR. O'CALLAGHAN:

Q In or around August of 1995, before you went on your trip for your vacation?

A Okay. The question is do I specifically recall?

Q I will ask you if you have a general recollection of doing it.

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A I have general recollections of meeting with Mrs. Clinton, with Patty, and -- with Patty. I don't have a general or specific memory of meeting with Mrs. Clinton, Neel and Patty.
Q Would it be atypical for you to meet, to go up to the residence with Patty on a Wednesday and a Friday to have scheduling meetings?
A No.
Q Do you have scheduling meetings more than one in a three-day period?
A Yes.
Q Would you have any other meetings with Patty and the First Lady other than issues dealing with scheduling?
A It would be scheduling.
Q Would Mr. Lattimore be involved in scheduling meetings as well?
A Generally not. Ms. Caputo might be there if there was a situation where there was some media issue.
Q Press concerns?
A Some press concern. And Neel is Lisa

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Caputo's deputy.
Q Do you recall going up with Patty and Neel, and then staying behind and Neel and Patty going on without you around August 1995?
A I don't have a specific recollection. I don't have a specific recollection.
Q Do you have any recollections of being in the residence with Mr. Lattimore in August of 1995?
A Not this moment. I do not.
(Mr. Giuffra entered the deposition.)
BY MR. O'CALLAGHAN:
Q Looking at these records, do you have any reason to doubt that you went up with Ms. Solis and Mr. Lattimore on August 9, 1995?
A Looking at these records, no, I don't have any reason to doubt it.
Q Did you have any meetings at the residence that involved Ms. Solis and Mr. Lattimore where Rose Law Firm records were discussed?
A No.
Q I would like to direct your attention to another document, another one-page document similar

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to the F-1 movement log. It bears a Bates stamp S 020325 and I will give you a copy.

Do you have what I reported?

A 8/14.

Q I want to direct your attention once again to the entry, seven rows up from the bottom, says Maggie Williams, up at 1640 and out at 1840.

Do you have any recollection of going up to the residence on Monday, the 14th of August?

A Once again, I could not tell you that date, specifically 8/14. But this appears to be our big general scheduling meeting.

Q Do those take place at night often, or generally during the day?

A Whenever we can get them in.

Q What's the reason you believe that this was your general scheduling meeting?

A Because I see Ann Stock, Lisa Caputo, Melanne Verveer.

Q Was it unusual for you to be going into the residence on a Wednesday, Thursday, Friday and a Monday, in succession; is that typical?

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A Well, nothing is really typical.

If you had a state dinner on a Wednesday, and then, as we often do, two events on the next day, all of which have to do with either scheduling or invitation list, or something that's going on, there is really not -- it is not typical.

Q Generally the entries that we are talking about on the Wednesday, Thursday and Friday occurred during the afternoon, and those included Mr. Barnett. Would he be involved in meetings where you talk about state dinners, or would he be there for specific other matters?

A Well, I guess the question was related to this, and how I knew that this was a scheduling meeting, and it was by looking at the people who were there.

Q My question was with regard to your being in the residence on a Wednesday, Thursday, Friday, and then on a Monday, you said normally you are only there one to two times a week for scheduling meetings. This seems to be atypical, from being there one to two times a week just for scheduling

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meetings, when it appears from the records that the only meeting that appeared to be a scheduling meeting was on Monday, except the one with Ms. Solis was scheduling meeting also?

MR. DENNIS: Mike, can I take issue with one thing. One, the assumption is that she comes to the residence primarily for scheduling meetings. I thought her testimony was that she had scheduling meetings or went to the residence approximately on average twice a week. That doesn't mean some weeks she might not go every day and some weeks she might not go at all.

The second thing is, there is an assumption she only goes to the residence for scheduling meetings. I don't know whether that's the case or not, but I think we should try to clarify this so we are not confusing things, because your question really assumes quite a few things that, as to why they were -- that this was somehow suspicious because it is four days in a row. So would you try to clarify some of these questions.

MR. O'CALLAGHAN: Okay.

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BY MR. O'CALLAGHAN:

Q Part of the problem is you have had difficulty recalling the different purposes for your visits that I have pointed out to you in the different logs. And I was just trying to ascertain as to whether it was unusual that you were there four work days in a row, Wednesday through Friday and then Monday. And whether the fact that you were there with Mr. Barnett was something that -- it obviously wasn't something that involved scheduling; is that right?

A Right.

Q And I think you testified earlier you thought the only discussion you recall with regard to meeting with Mr. Barnett was a discussion about the First Lady's book; is that right?

A Right.

MR. GIUFFRA: Off the record.

(Discussion off the record.)

MR. O'CALLAGHAN: Back on the record.

BY MR. O'CALLAGHAN:

Q Okay. Ms. Williams, I would like to show

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you a multipage document which bears Bates stamp DKSN 028928 through DKSN 029043. It's a computer printout, and it is entitled "Rose Law Firm client billing and payment history by client ID matter." And the top of the first page reads "client 98262, Madison Guaranty Savings & Loan."

I would like to hand this to you and your counsel and take a moment to look at it. I will ask you some general questions about the documents as a whole.

MR. DENNIS: Mike, let me ask you before we look at them, I notice that the Xerox itself is on Xerox paper that seems to be larger than the contours of the record that was Xeroxed. Is that accurate? Just looking at this border here on the left.

MR. O'CALLAGHAN: The observation appears to be accurate to me. I can represent to you that this is how they were produced.

MR. DENNIS: Okay, okay, I understand. At least it is possible that the original of these records might be a size, maybe two inches less width than what's shown here; at least that's a

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possibility, that's all I am saying.

MR. O'CALLAGHAN: I can represent to you that this is how the documents were produced to us by Mr. Kendall on --

MR. PORTNOY: This appears -- these appear to be 11-1/2 by 17 inch or larger copies of smaller documents.

MR. GIUFFRA: This is the actual copy of the billing records provided to the Senate Banking Committee by David Kendall on January 5, 1996.

MR. DENNIS: Let me just put on the record, just with regard to what we are looking at, that the records that were provided by Mr. Kendall and are before us now appear to be Xerox copies of some records on computer paper. And it appears -- and this is my characterization -- that the records, the original records that were being copied, were approximately two inches, an inch and a half narrower than the Xerox that I am looking at. My characterization; you don't have to agree with it.

MR. GIUFFRA: Off the record.

(Discussion off the record.)

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MR. O'CALLAGHAN: Back on the record.
BY MR. O'CALLAGHAN:
Q My first question, Ms. Williams, is have you ever seen the documents that I have just shown to you?
A At the -- my lawyer asked White House counsel to show them to me.
MR. DENNIS: Soon after they were found.
BY MR. O'CALLAGHAN:
Q What time period was that?
A I don't know, was it last week or -- I don't remember.
Q Was it within the last two weeks?
A Yes.
Q Do you remember what day you were shown them?
A No.
Q Other than your attorney showing them to you -- you said White House counsel showed them to you or your attorney did?
A My attorney.
MR. DENNIS: Let me put this on the

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record.
I had not had any custody of these records or records like this. I instructed my client, very soon after I believe the records were found, to take a look at the records in the presence of White House counsel, and to determine whether or not she had seen these records before.
But in terms of when that occurred, I can only place it in terms of being soon after they were found.
BY MR. O'CALLAGHAN:
Q Did you see these before they were produced to the Special Committee?
A No, I think they had long been in the news. I don't know when they were produced to you.
Q Had you heard that they had already been produced to the Special Committee when you reviewed them?
A I don't know.
EXAMINATION
BY MR. GIUFFRA:
Q I want to ask a couple of questions, go

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through the documents, flip through the pages. Have you, on any occasion prior to the time when you were shown the documents by the White House counsel, ever seen any of the documents within that compendium, DKSN 28928 through 29043? And take your time and go through the whole thing.

And have you ever seen any of the pages in there on any occasion prior to the time you saw them with your counsel?

Were you present, Mr. Dennis?

MR. DENNIS: What?

BY MR. GIUFFRA:

Q When you saw it, who did you see it with, Jane Sherburne?

A Yes.

Q Go through the pages, look at each page, and if you have seen it before, let us know.

MR. PORTNOY: Off the record.

(Discussion off the record.)

MR. DENNIS: I want to put on the record, my client is looking at the form. Are you able to read these line for line, word for word as I am

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flipping through them for you?

THE WITNESS: I mean, I have just never seen this.

MR. DENNIS: But you are not reading each page and you are not asking her to read each page.

BY MR. GIUFFRA:

Q Have you seen documents that appear to be similar to these on any occasion prior to the time you were shown them by Ms. Sherburne?

A I have not.

MR. PORTNOY: Put on the record the documents have red markings on them.

MR. GIUFFRA: This is the exact copy we received from Mr. Kendall which contains red markings on some of the pages.

MR. GIUFFRA: Back on the record.

BY MR. GIUFFRA:

Q Ms. Williams, you've examined each page as shown to you, these documents Bates numbered DKSN 28928 to 29043; correct?

A Yes.

Q You looked at each one of the pages?

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A Yes.
Q Prior to the time they were shown to you by Ms. Sherburne of the White House counsel's office in January of 1996, you had never seen any of the pages of this document before?
A No.
Q Have you on any occasion, prior to the date when Ms. Sherburne showed you a copy of this document, bearing Bates number 28928 on to 29043, have you ever seen any Rose Law Firm records of any kind?
A No.
Q When I use the word "records," I want that to encompass not only billing records but any other kind of records of the Rose Law Firm.
A No, I have not.
MR. PORTNOY: By that, Bob, do you mean any documents that might have been drafted in the Rose Law Firm, or --
MR. GIUFFRA: Letters of the Rose Law Firm, documents of the Rose Law Firm, documents that came out of the Rose Law Firm, Rose Law Firm client files.

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MR. PORTNOY: That I assume she knew at the time to have been prepared by the Rose Law Firm or in the custody of the Rose Law Firm.
MR. GIUFFRA: That you thought was from the Rose Law Firm. If Mrs. Clinton wrote a letter on Rose Law Firm stationery and signed her name, let's include that, in the broadest possible sense.
THE WITNESS: Definitely no billing records or client things. I am just trying to think. No, no.
Does this include -- no, it does -- maybe I saw something in the newspaper. I am just trying to figure out --
MR. DENNIS: Just think to yourself.
MR. GIUFFRA: Think to yourself. What you remember is what you remember.
BY MR. GIUFFRA:
Q You have never seen any of the pages encompassed within 28928 to 29043 before they were shown to you by Ms. Sherburne; correct?
A No.
Q And you don't believe you have ever seen

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any Rose Law Firm billing materials before?
A No.
Q You don't believe you have seen Rose Law Firm billing invoices for any client?
A No.
Q Have you ever seen any documents that discuss services provided by the Rose Law Firm to Madison Guaranty Savings & Loan Association?
A No.
Q Have you ever seen any documents bearing the Rose Law Firm letterhead?
A Yes, I have.
Q When would you have seen documents, prior to the time you were shown these documents by Ms. Sherburne, bearing the Rose Law Firm letterhead?
A I know at one point there was a listing of all of Mrs. Clinton's boards and -- boards, and I don't know, honorary chairs or something, that was on Rose Law Firm stationery.
Q But you can't think of any other documents that you might have seen that were on Rose Law Firm stationery?

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A Just that, that I --
Q You knew Mr. Vincent Foster; correct?
A Yes.
Q Were you familiar with his handwriting?
A I don't know.
Q Let me show you a document which bears Bates number DKSN 28933 and there is some handwriting in red. Does this appear to be Mr. Foster's handwriting?
A I could not tell you.
Q Let me show you another page, DKSN 28934. Does that appear to be Mr. Foster's handwriting? This is the handwriting.
A Oh, yes. I do not know.
Q Have you ever met someone by the name of Beverly Bassett Schaffer?
A No.
Q Have you ever seen any documents that would reflect, refer or relate to the issuance of preferred stock by Madison Guaranty Savings & Loan Association?
A No.
Q Have you ever seen any documents that would

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reflect, refer or relate to something called IDC?
A No.
Q Do you know what the acronym IDC stands for?
A No.
Q Have you ever heard of something -- strike that.
Have you ever seen any documents that reflect, refer or relate to something called Castle Grande?
A No.
Q The document bearing Bates numbers DKSN 28928 to DKSN 28943, have you ever discussed this document with anyone other than your counsel or Ms. Sherburne?
A No.
Q Have you ever discussed with Mrs. Clinton the discovery of this document in the book room of the White House?
A No.
MR. DENNIS: Let me just --
(Witness conferred with counsel.)

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BY MR. GIUFFRA:
Q Do you want to amend your answer?
A Yes.
As you know, Mrs. Clinton was about to embark on a book tour when the documents were found, that following week. And we had a discussion about the fact that we were starting to get questions from the media about it.
Q This was discussions between yourself and Mrs. Clinton?
A Yes. And I want to say Lisa Caputo was there, but I am not sure. I am just not sure.
Q Was this approximately -- was this within days of the records being found in the book room of the White House?
A Within days.
Q Two, three -- break it down this way. Had you seen the documents yet at the time of this discussion?
A No.
Q I can make it simpler. Do you recall if you had the discussion in -- do you recall in

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Washington, I think it was approximately the 6th of January, there was a big snowstorm?
A Oh, yes, yes.
Q Was it about the time of the big snowstorm?
A Either of or right after. I think that if I -- I am just trying to think in connection with the book tour, which was I believe that following week. Well, I will go back to the timing of it, and I will try and think through that, but I know that we had set up a number of press interviews, or Simon & Schuster had, for the book tour and now we knew there would be other questions about that.
And, you know, we had a discussion about the process of whether or not, you know, we would just let the book interviews be whatever they turned out to be, whether it was a discussion of these records or any other matters, so we had several discussions like that.
Q About whether to limit the scope of the questions that reporters could put to Mrs. Clinton?
A Yes, whether -- right. And, if we did, how would we do that, given that this was set up by Simon

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& Schuster. And in the end, we decided that we couldn't, but definitely we had a discussion about it. Also --
Q And you decided you couldn't limit the questions that would be asked of Mrs. Clinton?
A Yes, and it was a pretty heavy -- a very heavy press schedule that had been put together for the book tour. And so we didn't amend it or change it.
And the only other discussion I had with her about that --
Q Let's just go back. Did Mrs. Clinton, during this first discussion, say anything to you about these records?
A No.
Q Did she indicate to you in any way anything having to do with the circumstances surrounding their discovery?
A No, she did not.
Q Okay, go ahead.
A I was just talking about the process. We also knew that, as she went out on the book tour,

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that we assumed that national press would follow her and, you know, call questions out to her, break the book line, that kind of thing, none of the things we had accounted for when we first thought about this. But we knew that this question would mean we had to think through another process for how the book tour went forward.

Q And you said you spoke to Mrs. Clinton a second time?

A Well, this was a -- this was a couple of times, because we didn't -- we didn't come up with how it would be. And I know that Lisa was, at some point, involved in those discussions. They -- the woman from Simon & Schuster, I mean we had to think it through.

Q And in any of these discussions you had with Mrs. Clinton, did she at any time indicate to you anything with regard to the circumstances surrounding the discovery of the document bearing Bates numbers DKSN 28928 through 29043?

A No, she did not.

Q She did not indicate to you her surprise,

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for example, that the documents were found by Mrs. Huber?

A Well, I think by that time, that there had already been a statement put out by Mark Fabiani and I had read it. There wasn't really a need for discussion.

Q Now, did there come a time in approximately mid-January when Mrs. Clinton gave an interview with Barbara Walters?

A Yes.

Q Did you assist Mrs. Clinton in preparing for that interview?

A Yes.

Q Did you discuss with Mrs. Clinton questions that might be asked of her by Barbara Walters?

A By Barbara Walters and anybody else.

Q And do you recall approximately for how long you might have met with Mrs. Clinton to prepare questions and answers for the interviews, with Barbara Walters and other persons?

A Well, for the most part, there wasn't much preparation for her to be had on these issues, other

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than us just saying these are the questions that have come in. Plus at that point I had press who were calling me about it. And so it was a matter of saying these are the questions that are coming in, these are the many different ways they will be coming in, and you know, expect them.

Q Did Mrs. Clinton indicate to you whether she had ever spoken to Mr. Hubbell about Rose Law Firm billing records relating to Madison Guaranty?

A No.

Q Did she indicate to you whether she had ever spoken to Mr. Foster about Rose Law Firm billing records relating to Madison Guaranty?

A No.

Q Did she indicate that she had not spoken to Mr. Foster about Rose Law Firm billing records relating to Madison Guaranty?

A No.

Q Did she indicate to you that she had not spoken to Mr. Hubbell about Rose Law Firm billing records relating to Madison Guaranty?

A No.

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Q So your testimony would be she didn't say anything one way or the other with regard to Mr. Hubbell or Mr. Foster?

A That's correct.

Q Did she indicate to you whether she had reviewed any Rose Law Firm billing records relating to Madison Guaranty during the 1992 Presidential campaign?

A No.

Q Did she discuss with you -- strike that.

Have you ever heard of something called IDC before today?

A Yes, I've heard about it.

Q Through news accounts?

A News accounts.

Q Did you discuss IDC with Mrs. Clinton with preparing her for her press interviews?

A Well, that definitely was a question that came up. There would be no way that I could prepare her for it.

Q But in the course of her preparation, did she say anything to you, in your presence, about IDC?

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A Well, I don't remember specifically, but in the course of the preparation, I know IDC was a question that came up, and she probably answered it.
Q But do you recall her saying anything about -- strike that.
You are aware that Mrs. Clinton represented Madison Guaranty when she was a lawyer at the Rose Law Firm between 1985 and 1986?
A Right, I don't know the specific dates, but --
Q Have you on any occasion ever discussed with Mrs. Clinton her representation of Madison Guaranty between 1985 and 1986?
A No. Only insomuch as prior to her going out on the book tour or talking with Barbara Walters and whoever else she talked to, in that setting.
Q Were you aware that in 1994, in March, that the RTC issued a report having to do with the Rose Law Firm's representation of Madison Guaranty?
A The RTC?
Q Yes.
MR. PORTNOY: Want to put a time frame on

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that, Bob? Was she aware contemporaneously or is she now aware?
MR. GIUFFRA: Okay.
BY MR. GIUFFRA:
Q In March of 1994, did you have any discussions with Mrs. Clinton about the fact that the RTC was conducting an investigation of the Rose Law Firm's representation of Madison Guaranty?
A I don't recall that discussion.
Q Do you recall -- would it be your testimony the only recollection you ever have of discussing the Rose Law Firm's representation of Madison Guaranty with Mrs. Clinton is subsequent to the discovery of the billing records in the book room of the White House?
A Subsequent to that, and the only other time, if it had come up as a press question before. And I don't know exactly the context, whether it was billing records or whatever, but I may have, in the context of trying to deal with the press questions.
Q You are aware that in 1993 -- the end of 1993 and early 1994, there was a Whitewater response

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team set up at the White House?
A Yes.
Q You participated in some of those meetings?
A Yes.
Q Do you recall at any of those meetings the Rose Law Firm's representation of Madison Guaranty coming up as an issue for discussion?
A I don't recall. I mean, I don't remember. Could you say the question again, please?
MR. GIUFFRA: Read it back
(The reporter read the record as requested.)
THE WITNESS: No, I don't recall.
BY MR. GIUFFRA:
Q You know Harold Ickes, I-c-k-e-s?
A Yes.
Q You know Ms. Sherburne; correct?
A Yes, I do.
Q Are you aware that Ms. Sherburne reports to Mr. Ickes?
A She reports to Jackson Quinn.
Q You are not aware she also reports to Mr. Ickes?

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A I think she probably has to report to Mr. Panetta, Mr. Ickes, and Mr. Bowles -- or I guess Evelyn Lieberman, but as I understand it, the person she reports to directly is Jackson Quinn.
Q Do you have any understanding as to what Mr. Ickes's responsibilities are at the White House, with regard to Whitewater Guaranty -- Whitewater/Madison Guaranty matters?
A Whitewater/Madison Guaranty matters?
MR. PORTNOY: Can we go off the record for a minute.
(Discussion off the record.)
THE WITNESS: Whitewater/Madison Guaranty issues?
BY MR. GIUFFRA:
Q You want me to rephrase the question? Do you have any understanding as to whether Mr. Ickes had some responsibility for responding to issues relating to Whitewater, Madison, and related matters?
A Oh, yes, his input definitely would be sought.
Q Have you ever discussed with Mr. Ickes

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anything having to do with the Rose Law Firm's representation of Madison Guaranty?
A Not that I can recall. Do you have a time frame?
Q Any time. I mean, the reason I am asking the question that way, just so you know, is because if I start asking you, well in 1993, in 1994, we will be here until midnight, which obviously we want to get this done as quickly as possible, so if you had a conversation just say you did.
A That's what I am trying to -- I certainly have had, with respect to --
Q There is no intention to trick you or anything. I'm trying to basically get out the information.
A I am not trying to trick you.
Q I know. I want to make sure it is clear.
A I certainly had a conversation with Mr. Ickes, that I can recall, after the billing records were discovered.
Q Okay. What do you recall about that conversation?

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A It mostly -- it had to do with Mrs. Clinton traveling either to Iowa or New Hampshire, was one of those that we were -- that she was set to go to. And, whether or not, with these kinds of questions, should she proceed to go to New Hampshire and Iowa, so, yes, I did.
Q Do you recall anything more of substance about the conversation you had with Mr. Ickes after the discovery of the billing records?
A No. Mostly -- it was all process, because we had a lot of things scheduled and this was unexpected.
Q Going back to Mrs. Clinton's preparation for press interviews, do you recall any discussion of a man named Seth Ward coming up?
A No.
Q Do you know someone by the name of Alston Jennings?
A No.
Q You don't think you have ever met Alston Jennings?
A No.

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Q During the course of Mrs. Clinton's preparation for Barbara Walters and other press interviews, do you recall any discussion of Rick Massey coming up?
A Rick Massey. I remember Rick Massey --
Q Maybe I can -- have you ever heard the name -- Rick Massey, just to speed this up, was the person who was the associate who worked with Mrs. Clinton on the Madison Guaranty matter.
A Right.
MR. PORTNOY: You can also state for the record that Mr. Massey testified publicly before the Committee, so if you have a recollection of Mr. Massey please be clear whether that knowledge arose before or after he testified.
MR. GIUFFRA: That's fine.
THE WITNESS: Yes. I just only know him as an associate who did work for Mrs. Clinton.
BY MR. GIUFFRA:
Q Do you recall any discussion of Mr. Massey during the course of the preparation sessions for Mrs. Clinton's interview?

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A I don't remember -- I don't remember a discussion. I do remember -- I do remember something to the effect of her saying that an associate had done work, done the majority of work, on -- I don't know, whatever it was, Madison account or whatever.
Q Did she say anything during these preparation sessions about who was responsible for bringing Madison in as a client of the Rose Law Firm?
A I don't recall that.
Q What is the -- in terms of the paper flow to Mrs. Clinton, if someone were to send a memo to Mrs. Clinton, would it pass by your desk?
A Not necessarily.
Q So she has things that are directed to her that you don't see?
A Can be the case.
Q Is that the majority of documents that she sees or -- I mean, do you have a procedure in place for the communication of information to Mrs. Clinton?
A Yes, sometimes it -- I mean, it just varies.
Q Would most memoranda from White House staff

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to Mrs. Clinton be routed through you, or would you see a copy of such memoranda?

A It would depend on what the subject matter was.

Q Well, if the subject matter were anything having to do with Whitewater or Madison Guaranty?

A That would probably be between Kendall and White House counsel.

Q Let's go back to the period 1993, 1994, rather than more recent events, would you have seen memoranda that was directed to the First Lady relating to Madison Guaranty, Whitewater and the Rose Law Firm?

MR. PORTNOY: I am just going to state, again for the record, our understanding. This deposition was going to encompass the billing records and the discovery of the billing records and we are getting far afield.

MR. GIUFFRA: I will tie it up very quickly.

MR. PORTNOY: I would ask you to.

THE WITNESS: I don't recall.

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BY MR. GIUFFRA:

Q You don't know whether you would have seen such memos?

A Right, I don't recall. 1994?

Q 1993, 1994.

A I don't recall.

Q Let me show you a document which was produced -- it is actually in the Banking Committee's record from the hearings that were held in the summer of 1994. The number is 1720 through 1727. It is a memo to the First Lady from Harold Ickes, dated March 1, 1994. Have you ever seen this?

I should also say on the record attached, to Mr. Ickes, is a memo to Mr. Ickes from Neil Eggleston, dated February 28th, 1994.

A Well, I don't remember this top part.

Q That's the first page bearing number 1720?

A Yes. I don't remember seeing this. I don't remember seeing this.

But, I do remember seeing this -- this looks familiar to me. I don't know when I saw it.

MR. PORTNOY: By "this," what do you mean?

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THE WITNESS: Oh, I'm sorry.
BY MR. GIUFFRA:
Q The memo from Mr. Eggleston to Mr. Ickes that's dated February 28th, 1994, re: FDIC and RTC issues; is that --
A Yes, and to tell you the truth, I don't even remember -- I don't remember a top part of this. But there's -- I remember seeing something like it. I remember something like this.
Q Some document discussing FDIC and RTC reports relating to the Rose Law Firm?
A Yes, and I don't know when I saw it, but I do remember seeing that.
Q Do you remember any discussions you might have had with anyone about this memo?
A Oh, no.
Q Do you have any recollection as to how this memo would have come to your attention?
A No. I don't because I don't remember when I saw it.
Q Let me show you something. We don't have a Bates number. It's a report of the investigation

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from the Office of Inspector General/Resolution Trust Corporation, and the investigation concerns the Rose Law Firm. It is actually a multivolume document and we are giving you volume 3.
Have you ever seen this or anything similar to that?
MR. PORTNOY: The record should reflect it is a Xeroxed copy rather than the bound volume.
MR. GIUFFRA: Yes, I apologize for that.
THE WITNESS: No, I have never seen it.
BY MR. GIUFFRA:
Q Let me show you a newspaper article from the Washington Post dated August 5, 1995. Do you recall seeing this article?
A Oh, I probably read it.
Q Do you recall ever discussing this article with Mrs. Clinton?
A No, I wouldn't discuss it.
MR. PORTNOY: Was that that you -- was that response that you don't recall discussing it with her, or you recall you did not discuss it with her?
THE WITNESS: I wouldn't discuss it. I

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would have read it.
BY MR. GIUFFRA:
Q Why would you not discuss it with Mrs. Clinton?
A Because if it had something to do with this issue, I'd think that, as between Mr. Kendall and the White House counsel, there are enough people to discuss it with.
Q Did there come a time either in 1993 or 1994 or 1995 when you and Mrs. Clinton made a conscious decision that you would not participate in -- strike that.
Since Mr. Kendall was retained by the Clintons, have you participated in meetings with Mr. Kendall and Mrs. Clinton relating to Whitewater/Madison Guaranty issues?
A No. Although, in the subsequent -- no -- but the discovery of the billing records subsequent or -- yes, in talking about the press situation, since Mr. Kendall, I guess, you know, discussed these issues and he wanted to hear what she had to say, for -- for the book tour or whatever, so he sat

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there.
Q So he was present at the meeting --
A Part of it.
Q In which you and Ms. Caputo and Mrs. Clinton, discussed --
A Not discussed. Because my sense -- this -- and let me just -- for Lisa and I, it is a process issue.
Because we don't know anything about the substance, it's -- the substance is discussed between Mrs. Clinton and her lawyers, but for us it is a matter of these are the questions, you know, how are you responding, you know, kind of situation; it is not a discussion.
MR. DENNIS: Can I ask you, are we finished with the billing records at this point?
MR. GIUFFRA: Almost. I want to just come back to that one last time very quickly.
MR. DENNIS: Can you tell me where we are going because we would like to finish up. We were told we would be out of here by 5:30, 6:00.
MR. GIUFFRA: I think I can be done very

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quickly, within a matter of 15 minutes.
MR. DENNIS: I would like to see this tied in at least with the billing records because you can go on all night if you are going into every discussion she had with Mrs. Clinton in the potential area of Whitewater and Madison Guaranty.
MR. GIUFFRA: I don't have any interest in doing that. Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q You don't recall anything further of substance --
A No.
Q -- of the preparation sessions you have had with Mrs. Clinton regarding the discovery of the billing records?
A No, I don't.
Q Have you ever discussed the discovery of the document bearing Bates numbers 28928 through 29043 with Carolyn Huber?
A No.
Q Has Mrs. Clinton said anything to you about

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Carolyn Huber's discovery of these billing records?
A No.
Q Has anyone ever asked you to participate in a search for documents that might be responsive -- strike that.
Have you ever been asked by Mr. Kendall to participate in a search for documents that might be responsive to subpoenas issued by investigatory agencies relating to Madison Guaranty or the Rose Law Firm?
A No.
MR. GIUFFRA: Off the record.
(Discussion off the record.)
BY MR. GIUFFRA:
Q You have been to the so-called book room on the third floor of the White House residence; right?
A Yes.
Q Do you recall being there in August of 1995?
MR. DENNIS: That area has already been covered. It was covered while you weren't here.
MR. PORTNOY: I believe Ms. Williams

testified she does not recall having been in the book room in August, but does recall having been in the book room sometime after Mrs. Clinton returned from Beijing in September.

BY MR. GIUFFRA:

Q That's your testimony?

A Right, not word for word, but we spent a fair amount of time on it.

MR. GIUFFRA: No further questions -- just one last question.

BY MR. GIUFFRA:

Q Do you have any knowledge with regard to the location of the document bearing Bates numbers 28928 to 29043 prior to January 4th, 1996?

A That's this one?

Q Yes.

A No.

MR. PORTNOY: The record should reflect the witness pointed to the documents produced to the committee by Mr. Kendall.

MR. GIUFFRA: The so-called Rose Law Firm billing records.

BY MR. GIUFFRA:

Q You never saw them in Mr. Foster's office?

A No.

MR. PORTNOY: I have no questions, Ms. Williams. We will call it a night.

THE WITNESS: Thank you.

(Whereupon, at 5:51 p.m., the deposition was concluded.)

MARGARET A. WILLIAMS

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JOANNE LIVERANI , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Joanne Liverani

Notary Public in and for the
District of Columbia

My Commission Expires JULY 31, 2000

DEPOSITION OF JOHNNY B. MITCHUM
IN RE: S. RES. 120

FRIDAY, FEBRUARY 9, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of JOHNNY B. MITCHUM, called for examination pursuant to notice of deposition, at 10:20 a.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, ESQ.
Majority Associate Special Counsel
JAMES S. PORTNOY, ESQ.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

G. ROBERT HARDIN, ESQ.
Hardin & Grace
410 West Third
Suite 200
Little Rock, Arkansas 72201
On behalf of the Deponent.

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PROCEEDINGS

Whereupon,

JOHNNY B. MITCHUM

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. O'CALLAGHAN:

Q Good morning. My name is Michael O'Callaghan. I am associate special counsel for the Majority on the Special Committee. To my left is Jim Portnoy, who is an associate special counsel for the Minority.

This is a deposition which is being conducted pursuant to Senate Resolution 120. The resolution establishes a special committee administrated by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority and other related matters, in addition, with regard to bond underwriting contracts involving

Lasater & Company and the Arkansas Development Finance Authority and Arkansas State Police. The Majority and the Minority have agreed that it also falls within the scope of the resolution.

This deposition is in advance of public hearings likely in February or early March, depending on how long the committee is authorized to continue. It is likely you will be asked to testify at public hearings as well.

We will ask you a series of questions today. You are testifying under oath. You were just sworn in. If you don't understand a question, please let us know and we will be happy to rephrase it for you. Also if you need a break at any time, let us know. The stenographer is preparing a record of the questions and answers. The deposition will be treated as committee confidential until the commencement of the hearings.

Prior to the hearings, you will receive a letter from the Committee telling you you may review your transcript, and we will provide you with an errata sheet where you can make corrections to the

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transcript if you feel the are necessary. If you are also called to testify at the public hearing, you will be permitted to have a copy of your deposition transcript to review before the hearings.

You may be represented by counsel. Are you represented by counsel?

A Yes.

MR. O'CALLAGHAN: Counsel, please identify yourself.

MR. HARDIN: Bob Hardin with the firm of Hardin & Grace in Little Rock, Arkansas.

BY MR. O'CALLAGHAN:

Q With regard to format, objections to the form of the question will be noted for the record. Counsel may object on grounds of privilege and relevance. The Committee chairman may rule on objections where the witness refuses to answer a question.

Please state and spell your full name for the record.

A Johnny, J-o-h-n-n-y, Burge, B-u-r-g-e, Mitchum, M-i-t-c-h-u-m.

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Q Have you spoken with anyone other than your counsel prior to this deposition with regard to the deposition?

A No.

Q Did you do anything to prepare for the deposition today?

A Other than speak with him, no.

Q Do you have any documents?

A No.

Q Are you currently employed?

A Yes.

Q Where are you employed?

A I am chairman and CEO of a company called JBM Enterprises and also managing partner of a limited liability company, Quapaw Restoration Associates, LLC.

Q What is your current business address?

A Suite 217, The Lafayette Building, 523 South Louisiana, Little Rock, Arkansas, 72201.

Q Did you attend college?

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A Yes.
Q Where did you go to school?
A Bachelor's degree at the University of Arkansas in Fayetteville, graduated in 1969; MBA from the University of Central Arkansas, 1989.
Q Do you possess any professional licenses?
A CPA. I also have a real estate license. I don't know whether that is relevant.
MR. PORTNOY: Not to this portion of the proceedings.
THE WITNESS: I didn't have any Whitewater property listed.
BY MR. O'CALLAGHAN:
Q Between January of 1982 and August 1986, where were you employed?
A 1982 through June of 1985, I was with the accounting firm of Carter, Mitchum & Company in Batesville, Arkansas. And then from August 1983 through August of 1986, I was with Arkansas College in Batesville, Arkansas. It is now Lyon College, L-y-o-n, College.
Q During the time period January 1982 through

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August 1986, did you serve on any state boards or commissions?
A Arkansas State Police Commission.
Q When were you first named to that?
A Let's see. I believe that would be January of 1982.
Q How long did you serve on that commission?
A Seven years.
Q Through 1989?
A Yes.
Q How long is a term as commissioner?
A Seven years.
Q And is that an appointed position?
A It is.
Q Who appoints the members to the commission?
A The governor.
Q Could you describe how you came to be commissioner? Did you seek it out? Were you nominated by somebody? How it came about?
A I asked then-Governor Frank White to appoint me.
Q Are commissioners removable at any time?

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Is it a set seven-year term?
A I would assume it is a set seven-year term, unless you commit malfeasance in office or whatever, or miss -- I believe if you miss three consecutive meetings that are unexcused, then you may be removed. I believe that. I wouldn't swear to that, but I think that is the law.
MR. PORTNOY: Is that a provision unique to the Police Commission or is that state law?
THE WITNESS: I think it is unique -- each commission or board has its own regulations regarding that. I believe that is the State Police Commission's rule on that.
BY MR. O'CALLAGHAN:
Q Who can remove someone from the commission?
A The governor.
Q Anyone else?
MR. PORTNOY: I'm sorry. Just to be clear, is that only under the circumstances that you have identified?
THE WITNESS: I would assume so.
MR. PORTNOY: So for cause, in effect?

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THE WITNESS: Yes, for cause.
BY MR. O'CALLAGHAN:
Q Can anyone else remove someone from the commission?
A I don't know the answer to that.
Q If you don't know the answer, you can just say I don't know. That's fine.
A Okay. I don't know.
Q Are you aware of a bond underwriting that was undertaken in 1985 to finance the police radio network?
A Yes.
Q How are you familiar with that?
A Well, the enabling legislation -- I'm not sure when it was passed, I guess it would have been in the '85 legislative session -- charged the State Police Commission with the responsibility of obtaining a new radio communications system for the state. As a part of that charge, it was our responsibility to provide the financing.
Q When did you first learn that the State Police were considering acquiring a new

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communications system?
A It would have been during the legislation session. Even though it had been talked about, for example, it was badly needed. So it had been talked about from day one.
Q When you say "talked about from day one," what time period are you talking?
A Well, from the moment I went on the commission, I was made aware that the State Police had an antiquated system.
Q Do you know where the idea or the impetus came for the enabling legislation that finally proposed a new system?
A It probably filtered down to the legislature and the governor from the commission and from the director of the State Police.
Q Where you or any member of the commission involved in helping draft or advise with the drafting of the enabling legislation?
A Not to my knowledge.
Q Was there a specific committee set up to deal with issues involved in putting a new

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communications system together?
A After the legislation was passed? You mean a subcommittee of the commission?
Q Yes.
A Yes.
Q When was that established?
A I can't give you an exact date, but sometime after the legislative session. It might have been April or May. I'm not sure.
Q Did the State Police undertake any efforts to furnish or identify a possible communications system before the enabling legislation was passed?
A Oh, yes.
Q When did that begin?
A I'm not sure, but I'm sure it had begun previous to the legislation.
Q What had you heard about that before the legislation?
A I'm sorry. I don't understand your question.
Q With regard to efforts undertaken by the State Police to furnish and identify possible

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communications systems, what was the basis of your knowledge that that occurred before the enabling legislation?

A Okay. From time to time, Major Jim Tyler would report to the commission on information that he had gathered from other states and through the national state police organizations relative to state-of-the-art radio communication systems.

Q Were those reports given during commission meetings, informally, both?

A Yes.

Q I'm sorry. Which one?

A Both.

Q Was Major Tyler charged by anyone to do this, or was this an ongoing process that the police were constantly looking at, or was there a specific task he was given?

A I'm not sure who gave him the assignment. Probably the director.

Q Who was the director at the time?

A Colonel Tommy Goodwin.

Q Have you ever heard that Colonel Goodwin

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made a suggestion to the governor at a state trooper funeral that the state needed a new communication system?

A I would assume that he talked to him about it at every opportunity. Funerals really kind of brought this issue to a head, because we had one or more troopers killed in action because they couldn't talk to their home base with the antiquated system we had.

Q But with regard to the question I asked, whether you had knowledge of the conversation that occurred.

A No.

Q Had you ever heard about it?

A No.

Q Did anyone tell you about it?

A No.

Q Was there a legislative committee set up to study communications systems for the State Police, that you are aware of?

A I think there was, but I can't remember the circumstances surrounding that.

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Q I would like to show you a document. This may help you.
A Okay.
Q Bates stamped DKSN 027458 through 464. It is a multipage document on state of Arkansas Department of Computer Services letterhead. It is addressed to the Honorable Knox Nelson. The cover letter is a little more than two pages, signed by Tommy L. Goodwin, director, Arkansas State Police, and John A. Kennedy, director, Department of Computer Services. Then there is an attachment dated September 5, 1984 which is entitled "Arkansas Telecommunications Program."
I will give a copy to you and your counsel. Take a minute to review and let me know when you have had a chance to look at the document. I will ask you some general questions about it.
A Okay.
(Witness examined the document.)
MR. O'CALLAGHAN: We are back on the record.
BY MR. O'CALLAGHAN:

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Q Mr. Mitchum, have you ever seen the document I just handed to you?
A I probably have. I don't remember seeing it.
Q Why do you think you have probably seen it before?
A It was probably presented to the commission at some point.
Q Do you know what this document represents?
MR. HARDIN: Can I go off the record just a minute?
MR. O'CALLAGHAN: Certainly.
(Discussion off the record.)
MR. O'CALLAGHAN: Back on the record.
BY MR. O'CALLAGHAN:
Q After reviewing this document, does it help put in reference the time when the first thoughts were given to putting together a new communication system?
A Yes.
Q What is your -- after having reviewed the document and having your recollection refreshed, what

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is your best recollection of when the first efforts were made to establish a new communication system?
A Well, this is dated in September of 1984. So, I would assume that the director reported to us at commission meetings that this was in process.
Q Does this help you recall how this process was first begun?
A No, not really.
MR. PORTNOY: Also, if I could just ask you to clarify. Are you speaking about the formal procurement process or the discussions within the department?
THE WITNESS: Well, the discussions started the day I went on the commission and have been going on for many years.
BY MR. O'CALLAGHAN:
Q The question was geared to elicit a response with regard to the formal efforts taken to start organizing, getting a new telecommunications system together for the police.
A I suppose that in the fall of 1984, as this was in process, the director reported to the

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commission that as a result of the study, that enabling legislation would go before the legislature in the 1985 session.
Q So, other than being informed that enabling legislation would go before the legislature, was the commission consulted with regard to the legislation?
A No, not on specifics.
Q Who was involved in putting together the enabling legislation?
A I'm not sure. I'm not sure.
Q Was the commission approached by any financial firms with regard to helping provide a financing structure for a new radio system, before the enabling legislation was enacted?
A Not to my knowledge.
Q How about afterwards?
A Yes.
Q Do you recall how that first came about?
A We had a commission meeting shortly after the legislation was passed, and I believe interested underwriters were asked to be at the meeting and listen to any information that might come out about

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that.
Q I want to show you another document. It is a multipage document bearing Bates stamps DKSN 017938 through 017940.
MR. HARDIN: Can I ask another question?
MR. O'CALLAGHAN: Sure.
MR. HARDIN: When you do send a deposition for review, will all the exhibits that you have discussed here be affixed?
MR. O'CALLAGHAN: No, they will not be. The committee has an agreement with the people who have provided the documents that they will be treated as confidential. We are not allowed to release them.
MR. HARDIN: It is kind of difficult to analyze a deposition without the exhibits to which you are referring at the time. I just wanted to know that.
MR. O'CALLAGHAN: That's the procedure that has been put in place.
BY MR. O'CALLAGHAN:
Q The document is on T.J. Raney & Sons,

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Incorporated letterhead dated January 4, 1985. It is addressed to Mr. David Mosley, Arkansas State Police. It is signed by Paul B. Young, vice president.
A Do you want me to read this in detail?
Q I would read through it.
A Okay.
(Witness examined the document.)
Q Mr. Mitchum, have you seen the document I just showed you before?
A No.
Q Were you involved at all in dealing with the underwriting firms that made proposals for the financing of the police radio system?
A No.
Q Did you have any contact with them at all, anyone at the firms?
A During the RFP process, of course, all of them were calling me daily.
Q Are you familiar with David Mosley?
A Yes.
Q Who is David Mosley?

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A He was the chief fiscal officer for the State Police.
Q Did he have contact with underwriting firms?
A Obviously.
Q Do you have any knowledge independent of this letter?
A No.
Q Did you discuss the financing proposals with him at any time?
A No.
Q When was the first time that you became aware of financing proposals that were forwarded for the state radio system?
A At the commission meeting, when it was announced that we needed to send out RFPs.
Q How did you become aware of it --
MR. HARDIN: What is an RFP?
THE WITNESS: Request for proposal.
MR. PORTNOY: Off the record.
(Discussion off the record.)
BY MR. O'CALLAGHAN:

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Q You said you first found out about the financing proposals -- excuse me.
Read back the last question.
(The reporter read the record as requested.)
BY MR. O'CALLAGHAN:
Q You said you first became aware of the finance proposals for the state radio commission during commission hearings; is that right?
A Yes.
Q Who was the -- who brought that to your attention?
A Major Tyler probably introduced the subject, and then he would have referred to David Mosley, who was the finance person.
Q Was there anyone on the commission who had been dealing with these issues before they were brought up in that meeting?
A Not to my knowledge.
Q Are you aware of anyone in the State Police other than Mr. Mosley who was involved in dealing with underwriters?
A No.

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Q Are you familiar with anyone by the name of Mahlon Martin?
A Yes.
Q Who is Mahlon Martin?
MR. PORTNOY: For the record, I believe that is M-a-h-l-o-n, the first name.
THE WITNESS: Mahlon was -- let me think about that a minute. At that time -- you want to know what he was doing at that time?
BY MR. O'CALLAGHAN:
Q That would be fine, thanks.
A I think he was the director of finance and administration for the state of Arkansas, I believe, at that time.
Q During the 1984-1985 time period, did you have any contact with him?
A Just I knew him and I would maybe see him at social functions or things like that, but that was the only contact.
Q Did you have any discussions with him with regard to financing for the radio network?
A No.

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Q Did you have any discussions, again during the same time period, 1984 through 1985, did you have any discussions with anyone in the Governor's office with regard to the state radio project?
A No.
Q Did you have any discussions with anyone at any time in the Governor's office with regard to the State Police radio project?
A No.
Q Did you have any -- did members of the Governor's staff or anyone from the Governor's office attend any of the committee meetings where the radio project was discussed?
A Yes.
MR. PORTNOY: Did you mean the commission or the subcommittee of the commission or both?
BY MR. O'CALLAGHAN:
Q Let's start with the commission.
A Yes to both.
Q Who from the Governor's office attended those meetings?
A I don't remember. At one time we had a

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female person, and at one time we had a -- I really don't remember either one of them's name.
Q Was one of the names Michael Gaines?
A I believe so, yes.
MR. HARDIN: I believe what you are asking -- are you asking if he remembers if Michael Gaines attended one of the meetings?
MR. O'CALLAGHAN: Correct.
THE WITNESS: Yes.
BY MR. O'CALLAGHAN:
Q Did you have any involve -- did you have any discussions with Mr. Gaines at any of the meetings?
A I don't remember.
Q What was the level of participation of members of the Governor's staff during the committee meetings?
A As I recall, they were just there, primarily just listened.
Q Did they provide any guidance as to what the Governor's office would like to see done with regard to the project?

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A No.
Q Any suggestions?
A No.
Q Did they ever speak before the committee or the commission?
A No. I think they were primarily there to listen and report back to the Governor, liaison capacity.
MR. O'CALLAGHAN: Off the record.
(Recess.)
BY MR. O'CALLAGHAN:
Q We have been talking about the State Police Commission and also discussed the committee. I don't think we identified the name -- what was the proper name of the committee that was set up to deal with the State Police radio financing?
A I don't recall specifically.
Q Was it called the financial screening committee? Do you recall?
A I don't recall.
Q How was the committee set up that dealt with the State Police communication system?

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A Do you mean after the legislation was passed?
Q After the legislation was passed, yes.
A I believe that three or four commissioners were appointed to this committee, as well as the chief fiscal officer. And it seems like I recall a representative of state purchasing, and that's all I recall.
Q Who appointed the members of the committee?
A The chairman of the commission would have done that.
Q And who was that at the time?
A I believe it was Billy Simpson.
Q What was Mr. Simpson's background?
A I don't know all of his background. I understand he was in the vending machine business, and he, I believe, was involved in food brokerage.
Q Do you know what criteria were used to select members of the committee?
A No. Really, I assume that he appointed me because of my finance background.
Q Did he tell you that?

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A I don't recall.
Q I would like to show you another multipage document. It is copies of -- it is copy of the minutes of the Arkansas State Police Commission meeting, April 4, 1985, bearing Bates stamps DKSN 027582 through 27586.
A Did you want me to read this in detail?
Q I'm going to direct your attention to specific portions.
A Okay.
(Witness examined the document.)
Q This is minutes of an April 4 meeting. Did you attend that meeting?
A Yes.
Q Is this the first meeting where a discussion of financing for the police radio system was discussed?
A I'm not sure.
Q I would like to direct your attention to the first page where it says "others attending."
A Yes.
Q There is a list there of different people.

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I asked you earlier -- the first one listed is Mike Gaines, office of the Governor. I asked you if that was a person from the Governor's office who attended the meetings. That is consistent with your recollection?

A Yes.

Q I would like to ask you about the last portion of that "others attending." It reads "representatives from Lasater & Company, E.F. Hutton & Company and T.J. Raney & Sons." And under that is a list of names, Michael Drake, Anne Ritchey, Mr. Bill Woodyard, and Mr. Paul Young and Mr. Robert Brown.

Do you recall why those individuals were at the meeting?

A No.

Q Do you know if they were invited to the meeting?

A No.

MR. HARDIN: Can I ask -- it is a public meeting; correct?

THE WITNESS: Yes.

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BY MR. O'CALLAGHAN:

Q Do you know who Michael Drake is?

A Yes.

Q Who is Michael Drake?

A He was with the Lasater Company.

Q How do you know him?

A I met him at this meeting.

Q Had you met him before that?

A I don't recall.

Q Was the first time you met him in connection with your duties on the State Police Commission?

A I don't know the answer to that. Probably.

Q Other than this meeting on April 4, did you ever have any other contact with Mr. Drake?

A Did you say before or after? I'm not sure about before. I may have met him at a party or something. After, of course, I had several occasions to be around him.

Q Did you see him outside of State Police Commission meetings?

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A I might see him on the street or something. Little Rock is a small place.
Q Did you have any meetings with him?
A No.
Q Did you ever visit his office?
A No.
Q Did he ever move through your office?
A I don't think so. I don't recall.
Q Did you have any conversations with him outside of the commission meetings?
A At one time or another, virtually all of the bond-related people called each and every one of the commissioners.
Q Do you have a specific recollection of any conversations you had with him?
A No.
Q You said at a certain time that many of the bond-related people called you. What would they be calling you about?
A They wanted the bond business.
Q Would you characterize these as lobbying efforts or sales --

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A I would call them lobbying efforts. They are sales folks.
Q Did Mr. Drake ever make an offer to do a direct sales pitch to you at your office?
A I don't recall.
Q Did he offer to have you come over to Lasater & Company?
A I don't recall.
Q Did you ever interact with Mr. Drake socially?
A Not really.
Q Could you be more specific?
A No.
Q Did you ever attend the same dinner parties or cocktail parties?
A I don't recall. Probably.
Q Do you belong to any clubs, social clubs or sports clubs; this is during the same time period, 1985 through 1986?
A I belonged to the Batesville Country Club at that time.
Q Anywhere else?

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A Intermittently I was a member of the Capital Club in Little Rock. I don't recall whether I was at that time.
Q Was Mr. Drake a member of either Batesville Country Club or the Capital Club?
A He was not a member of the Batesville Country Club, and I don't know about the Capital Club.
Q Other than Mr. Drake, did you have any contact with anyone at Lasater & Company during 1985 and 1986?
A No.
Q Do you know anyone by the name of Patsy Thomasson?
A Yes.
Q How do you know her?
A I first met Patsy it must have been in the '70s when she was appointed to the highway commission.
Q How did you meet her?
A I was active in the Batesville Chamber of Commerce. I was a practicing CPA in Batesville at

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that time. In Arkansas there are five highway commissioners, and from time to time they have hearings on highway matters around the state. I probably met her at one of those.
Q Do you think it was in connection with a highway board meeting?
A Yes.
Q Did you have any contact with Ms. Thomasson during that 1985-1986 time period?
A No.
Q By contacts I mean discussions, meetings, any kind of communication.
A No. I may have run into her on the street and said hello, but no discussions.
Q I would like to have you look at some of the other names that are listed. The next one is Ms. Anne Ritchey. Do you know who she is?
A Yes.
Q Who is Anne Ritchey?
A She is an attorney, I believe, with one of the law firms. I'm not sure which one.
Q Do you know why she was in attendance at

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the meeting?
A I assume she was representing -- no.
Q How about Bill Woodyard; are you familiar with that name?
A Familiar, but I don't recall who or what he is.
Q Paul Young?
A Yes.
Q Who is Paul Young?
A Paul Young is with the T.J. Raney -- he was with the T.J. Raney Company.
Q And how do you know Mr. Young?
A Well, I met him in connection with the bond deal. Subsequent to that, I have seen him at little league baseball games in Little Rock.
MR. PORTNOY: Off the record.
(Discussion off the record.)
BY MR. O'CALLAGHAN:
Q For clarity sake, and maybe I -- I apologize. I was just informed that I was using the 1985-1986 time frame. I dealt earlier with the 1984-85 time frame. Let's deal with that, unless I

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say otherwise.
A Okay, fine.
Q I think I may have begun the 1985-86 time frame when I asked whether you belonged to any clubs. Did you belong to any additional clubs in 1984?
A No.
Q Did you have any contact with Patsy Thomasson in 1984 through 1985?
A No.
Q I just asked you about Paul Young, how you knew him. Did you know him previous to meeting him in connection with the police bond underwriting?
A No.
Q Did you have any contact with him outside of committee meetings?
A No.
Q Did you talk to him on the phone?
A Sure, yes.
Q And what were the nature of the conversations, telephone conversations?
A They wanted the bond business.

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Q Do you know who Robert Brown is?
A No.
Q Mr. Mitchum, are you aware of where the idea to finance the radio system through a bond underwriting came from?
A No.
Q Where that originated?
A I'm not aware of that, other than the letter you showed me a while ago from Raney suggesting possible options.
Q I would like to direct your attention to the second page -- the third page of this document, 27584. Under the title says "State Police Communications Act."
A Uh-huh.
Q There is a -- the minutes reflect -- I will read this. "A recommendation was made that a financial team be selected as soon as possible so they may be involved in negotiations with Motorola. After lengthy discussion between members of the commission, Mr. Ed Erxleben and Mr. Dudley Meadows, state purchasing represented several financial firms

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concerning procedures to follow relating to the acquisition and financing of the communications equipment. The commission agreed to begin immediately the process of selecting the financial institution to handle the financing."
Do you recall that discussion taking place?
A Yes.
Q Do you recall the specific recommendations that were made by the financial firms with regard to procedures relating to the financing of the communications equipment?
A No.
Q Were the representatives from the financial firms the people that are listed on the first page of this, under representatives from Lasater & Company, E.F. Hutton & Company and T.J. Raney & Sons?
A What is your question?
Q Were those the people that are referenced in the portion I just read?
MR. PORTNOY: Is what you are asking --
MR. O'CALLAGHAN: The --
MR. PORTNOY: The companies that

participated in the discussion or discussions, if you know.

THE WITNESS: I don't know.

BY MR. O'CALLAGHAN:

Q Were there representatives from any other financial firms present other than those listed on the first page?

A Obviously not.

Q I'm asking if you remember.

A No, I don't.

Q If there are other people attending a meeting, would they have been listed on the first page of the minutes?

A Yes.

Q Was it normal practice for members of the general public attending State Police Commission meetings to participate in the discussions?

A No.

Q Do you recall how the representatives of the financial firms came to be involved in discussions with the committee or the commission?

A No, I don't recall.

Q Does that help refresh your recollection as to whether they were invited to attend?

A No.

Q Is that consistent with their participation and discussion?

A I don't know how they were invited to attend.

MR. PORTNOY: I think your testimony was you don't know whether they were invited to attend.

THE WITNESS: Or whether they were invited to attend, yes.

BY MR. O'CALLAGHAN:

Q Are you aware of any other instances where members of the public that were not part of the commission participated in discussions at the meetings?

A At this meeting?

Q Any meetings.

A I recall that our commission meetings were really not that formal. So, I think that it wouldn't have been unusual for a visitor to say something at a commission meeting.

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Q Are you aware of any other instances where the members of the commission were involved in lengthy discussions with people who weren't part of the commission?
A Yes.
Q Do you have any specific recollection of that happening?
A Yes. Not related to the bond issue, but one of the things I tried to advocate as a member of the commission was physical fitness. I recall asking a physical fitness monitoring company from Phoenix or somewhere to come address the commission about the need to have troopers slim down. We had a very lengthy discussion about that.
Q In that instance, the physical fitness company was invited to address the commission, though?
A That's correct.
Q Do you know of any other times when members of the --
A That's the only one that comes to mind.
MR. PORTNOY: Can I ask one question?

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MR. O'CALLAGHAN: Sure.
MR. PORTNOY: Was it common for members of the public to attend meetings at all?
THE WITNESS: Yes, yes, particularly where there were promotions involved. Family members would come to see their relatives promoted or whatever.
BY MR. O'CALLAGHAN:
Q With regard to the meeting on April 4, 1985, was there a public notice put out that that meeting was going to occur?
A Yes.
Q Would that notice have listed all the business that was going to be conducted during that meeting?
A Supposed to do that.
Q Do you know when the first request for proposals went out for the underwriting of the communications system?
A Sometime after this meeting, but I can't give you a date.
Q At the page 27584, the last paragraph, "letter will be mailed on Monday, April 8, 1985 to

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financial institutions in the state seeking proposals, with a cutoff date of two weeks from the date of letter for proposals to be received."

Does that help refresh your recollection?

A Yes.

Q Do you know if any letters were sent out before April 8, 1985?

A No.

Q Who would have sent those letters out?

A David Mosley.

MR. PORTNOY: Was your testimony that you know that Mr. Mosley sent out those letters, or you assumed that in the normal course of his duties he would do so?

THE WITNESS: Yes, that I assume that he would have done it.

BY MR. O'CALLAGHAN:

Q Was he a member of the committee?

A Yes.

Q Would anyone else on the committee have sent the letters out?

A Not to my knowledge.

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Q I would like to -- this is a one-page document I would like you to review on state of Arkansas, Arkansas State Police letterhead, dated April 5, 1985, addressed to Mr. Michael J. Drake and signed by David Mosley.

(Witness examined the document.)

A Okay.

Q Have you ever seen this document before?

A I don't recall.

Q Did the members of the committee review letters that went out before they were sent out?

A No.

Q Does this help -- after reviewing this document, a letter dated April 5, a letter to Mr. Drake of Lasater & Company. It is DKSN 018227, the Bates number.

The first line reads "Dear Mr. Drake, you are requested to submit a proposal for financing the Arkansas State Police communications system."

Does this help refresh your recollection as to whether request for proposals went out before April 8th?

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A Obviously this one did.
Q Is this a request for proposal?
A Yes.
MR. PORTNOY: I would like the record to reflect that April 8th was a Monday and April 5th was a Friday. It is not clear whether this letter was drafted on April 5th or mailed on April 5th, or whether there is in fact a discrepancy. I want the record to be clear on that.
BY MR. O'CALLAGHAN:
Q With regard to the request for proposals that were sent out, were they all sent out at the same time? Were they sent at different times? Do you know?
A I don't know.
Q I would like to direct your attention again back to the minutes of the April 4th committee meeting.
A Okay.
Q On Bates stamped page number 27585, the top of the page, it says "new business continued and State Police Communications Act. Chairman Simpson

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appointed the following committee to review and evaluate proposals and to make preparations for the firms they select to make a formal presentation to the commission."
It lists Colonel T.L. Goodwin, Mr. David Mosley, Mr. Ed Erxleben, Mr. Dudley Meadows, Commissioner Johnny Mitchum and Commissioner Bill Simpson.
Then -- are those the members of the committee that you are familiar with?
A Yes.
Q I just had a question, because on the next page, I guess there was a break in the meeting, according to the minutes. Right after that that is reported at 11:35. It says "change in committee to review financial proposals for the communication system. Commissioner Simpson announced a change had been made in the committee. Major Tyler was added to the committee, also instead of only two members of the commission serving on the committee, the entire commission will serve. Commissioner Simpson requested that Colonel Goodwin write letters to

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members of the committee informing them that they had been appointed and listing all members of the committee. It was agreed Commissioner Simpson will chair the committee and Colonel Goodwin will serve as co-chair."

Do you recall the members of the committee being changed during the course of that meeting?

A I really don't. I don't recall. But it says that it did.

Q Do you recall that Major Tyler wasn't initially a member of the committee?

A I don't recall that.

Q Would you be surprised if he wasn't included as a member of the committee?

A Thinking about it, yes, I would. He was the administrative officer who would have been in the line of communication on that, no pun intended, communication.

Q One more question I want to ask you with regard to the board minutes. On page 27584, with regard to the last paragraph, "a letter will be mailed out on Monday, April 8, 1985 to financial

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institutions in state seeking proposal. The cutoff date of two weeks from date of letter proposals to be received." Was there a reason there was a two-week cutoff date placed on the return for proposals?

A I don't recall.

Q Were there any proposals that were sent in that were sent in after the cutoff date time?

A I don't recall.

Q Were there any proposals that the commission received that it didn't consider?

A That we did not consider?

Q Yes.

A I don't recall.

Q After the committee was put together, what were your responsibilities in connection with the committee for the State Police radio financing?

A As I recall, we were to receive the proposals and to review the analysis that our staff would perform, and then ultimately make a recommendation to the commission for selection of the bond underwriting firm.

Q What staff performed analysis of the

proposals?
A Maybe "analysis" is not a good word. I believe that Major Tyler and maybe Mr. Mosley compiled the proposals as they came in. It seems like I remember sort of a pro forma worksheet that they had prepared for our use in analyzing the proposals.
Q They collected the proposals and then gave them out to the committee members to analyze on their own?
A Correct.
Q And what was on the pro forma rating sheet that they gave you?
A As I recall, there was --
MR. PORTNOY: I don't think he testified there was a rating sheet. I think he said it was a worksheet, which might be different.
MR. O'CALLAGHAN: I'm sorry.
THE WITNESS: Yes. It was simply a matrix that had the interest rate, various attributes of the proposals.
BY MR. O'CALLAGHAN:

Q Did any of the members of the committee have any background in finance?
A I would assume Win Rockefeller had a lot of financial background. Of course Simpson, being a businessman, while I didn't have intimate knowledge of his skills, I would assume he was a successful business person.
Q Did any other members have any formal training of the nature that you did, being a CPA?
A No.
Q Did any one member of the committee take a lead role in analyzing the proposals?
A I suppose probably me.
Q Was that a formal assignment or did that come naturally?
A I don't think so. It just came naturally.
Q Did the committee or the commission hire any outside advisers or counselors with regard to analyzing the proposals?
A The committee did not.
Q Did the commission?
A The commission did not.

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Q Was anyone outside of the committee consulted?
A Yes.
Q And who was consulted?
A I individually contacted an enrolled actuary, a gentleman by the name of John Myers.
MR. PORTNOY: Could you spell that for the record, please.
THE WITNESS: I believe it is M-y-e-r-s.
BY MR. O'CALLAGHAN:
Q You said that he was an enrolled actuary?
A Yes.
Q What is an enrolled actuary?
A In country terms, he is a glorified number cruncher.
Q Is he an accountant?
A I don't think so.
Q Was Mr. Myers paid for his assistance?
A I understand he was.
Q Who paid him?
A I initially was going to pay him. I understand the bond group who ultimately did the

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financing paid his fee.
Q What group eventually did the financing?
A Raney, Hutton and Lasater.
Q When did they pay him his fee?
A I don't know.
Q Did they have any role in hiring him to do the work?
A No, absolutely not.
Q Did you know him, Mr. Myers, before you hired him?
A No.
Q How did you come to hire him?
A I called Mr. Hardin, who has been my attorney since the middle '70s.
MR. HARDIN: I might interject here, I don't want you to ask any questions about any communications that Johnny and I may have had. You can ask about Johnny's knowledge, but not about communications.
MR. O'CALLAGHAN: I don't want any attorney-client material. That's fine.
THE WITNESS: I told Mr. Hardin that I

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had --
MR. HARDIN: I don't want you discussing any communications you had with me or me with you.
BY MR. O'CALLAGHAN:
Q With regard to Mr. Mitchum's discussion with you about the hiring of Mr. Myers --
MR. HARDIN: He has answered the question, but I don't want you asking any further questions regarding communications with his attorney or me with him.
MR. O'CALLAGHAN: Just for the record, so we are clear, is this an assertion of attorney-client privilege with regard to those conversations?
MR. HARDIN: That's the only thing I am aware of that the privilege would apply to.
MR. O'CALLAGHAN: You need to make the assertion of the privilege on the record so we are clear.
MR. HARDIN: The reason that we do not want you asking questions about communications between Mr. Mitchum and me is because I have been Mr. Mitchum's legal counsel during that entire time,

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and that any communications between Mr. Mitchum and me would be considered privileged under the attorney-client privilege.
MR. O'CALLAGHAN: Were the communications you had with Mr. Mitchum with regard to hiring Mr. Myers, were those communications in connection with legal counsel that you were providing Mr. Mitchum as his attorney?
MR. HARDIN: I consider most of the communications I had with Mr. Mitchum privileged communications and in the course of my attorney-client privilege, yes.
MR. O'CALLAGHAN: But specifically those conversations?
MR. HARDIN: I --
MR. PORTNOY: Off the record for a moment.
(Discussion off the record.)
MR. O'CALLAGHAN: Is Mr. Mitchum asserting the attorney-client privilege with regard to the conversations he had with you about hiring Mr. Myers back in 1985?
MR. HARDIN: Yes.

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BY MR. O'CALLAGHAN:
Q How much was Mr. Myers paid for his services?
A I don't know.
Q What type of work did he provide in connection with doing analysis of proposals?
A I gave him copies of all of the proposals, and I asked him to perform an actuarial study to determine which of the proposals would be the cheapest cost for the people of Arkansas.
Q Did he perform any analysis?
A He did.
Q In what form was that analysis done?
A He would have called it a simple analysis. He simply reduced to present value the flow of funds under the duration of each of the proposals.
Q Did he give you a written or an oral report?
A Written.
Q Was that presented to you? Was it presented to the committee?
A It was presented to me first.

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Q Did anyone else work on the analysis other than Mr. Myers?
A No, not to my knowledge.
Q When did he present you with the analysis?
A I don't recall.
Q Do you recall how soon after you received the analysis, whether it was a week or a month?
A A week or two.
Q Did you perform any independent analysis of the proposals?
A Yes.
Q During the same time period?
A Yes. Actually, before.
Q You had already performed an analysis before you turned to Mr. Myers?
A Yes.
Q Were you satisfied with the analysis you did?
A It confirmed what I had.
Q I'm asking about your analysis. When you initially performed your analysis, were you satisfied with the results of your analysis?

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A I felt confident in my numbers.
Q Did you hire Mr. Myers in an effort to safety-check your analysis?
A In essence that's correct, corroborate what I had done.
MR. O'CALLAGHAN: Off the record.
(Recess.)
BY MR. O'CALLAGHAN:
Q I would like to show you a document Bates stamped DKSN 027364 through 27371.
(Witness examined the document.)
A Okay.
Q The document I just handed you, have you ever seen it before?
A Yes.
Q What is 27364 through 27371?
A Let me retract just a minute. I don't remember seeing that first sheet.
Q I will identify the whole document. The first sheet reads "State Police communications bid analysis." It has a breakdown of analysis sheets that are attached. The second page says "State

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Police communication bid analysis," dated 10 May 1985. It begins "present value study, number of bidder" and lists cost and some other headings. The following pages contain run sheets of various numbers, months, years, bond payments, net revenue and so forth.
What portion of this document have you seen before?
A I recall seeing all of the document after the first sheet. I don't believe this front sheet was part of Mr. Myers's analysis. I'm not sure where that came from.
Q With regard to the portion of the document that follows the cover sheet, what is contained in there?
A There is a summary of Mr. Myers's net present value computations, listing net present value cost of the issue; First Capital Corporation 18.073 million; Raney, Hutton and Lasater 18.101 million. Stephens 19.709 million, and it looks like that was marked through and 18.598 or 998 million was substituted. Dabbs Sullivan 1, 19.997 million; and

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19.216, Dabbs Sullivan 2.
Q Was this part of the analysis that Mr. Myers gave you?
A Yes.
Q Did you receive that in or around May 6, do you recall?
A I don't recall. It would have been around that time, yes.
Q Do you recall if you received it the same day the committee met to decide which proposal to accept?
A I don't recall that, no.
Q With regard to the run sheets that follow that, is this part of the analysis that Mr. Myers did for you?
A Yes.
Q The first portion is a list of First Capital Resources Corporation. It appears to run from page 27366 to 27368. Then page 27369 appears to be a run sheet for Raney, Hutton, Lasater, and that goes through 27371.
A Yes.

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Q I would like to show you another multipage document which goes from page 27168 through 27184.
A Okay.
Q I was going to ask you again the general question whether you have seen it before.
(Witness examined the document.)
A It looks like his present value analysis.
Q Including more sheets for the other firms that have put proposals in?
A Yes.
Q And then there -- the last page.
A Yes. That is the matrix that I remember the staff preparing.
Q Is that the one you referred to that Mr. Mosley gave out?
A Yes.
Q That you referenced earlier?
A Yes.
Q The sheet that appears here, 27184, it says "bid summary" and the left-hand column says "term" and "average monthly payments" and "total payments" and "net effective interest rate."

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There are numbers for Dabbs Sullivan, it appears, but there aren't numbers for the other companies.

Did you have a bid summary that filled out numbers for all the companies?

A I don't recall.

Q Did you give out the bid summary sheet to Mr. Myers?

A No. I only gave him the proposal.

Q What was the conclusion of your analysis of the various proposals? Before I do that, do you recall the number of firms that submitted proposals to the committee?

A I don't remember a specific number. Obviously there were five here.

Q I might have something that might refresh your recollection so we can identify it, so we are clear on the record.

A Okay.

Q The document Bates stamped 27874, it is minutes of board meeting for April 24, 1985.

Halfway down through the minutes, it lists

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a number of companies that said their proposals were received, from eight firms. Is that consistent with your recollection?

A Yes.

Q Do you know -- right above that it says "financing proposals were received until 9:00 a.m. on April 22, 1985." Are you aware of whether any proposals were received after 9:00 a.m.?

A I'm not aware of that.

Q Did you review all the proposals that were received by the committee?

A Yes.

Q Did every member of the committee review all the proposals?

A Yes.

Q Did the committee meet together to review proposals?

A Yes.

Q Was it also done individually?

A Yes, I assume that each member did his own analysis.

Q How many separate meetings occurred where

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proposals --
A I don't know.
Q -- where proposals were discussed?
A I don't know.
Q Was there more than one?
A As I recall, yes.
Q What was the format of the meetings? Was it at the State Police administration headquarters? At another location?
A The only -- the meetings that I attended were at the State Police headquarters in the conference room.
Q Were these public meetings or were these private committee meetings?
A Yes. In Arkansas, under Freedom of Information, any time two commissioners are together, it is covered and you have to give notice.
Q Did anyone else other than committee members attend meetings where they were discussing proposals?
A I don't recall that. I would assume that at some point Motorola may have been present.

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Q Were any of the firms that had submitted proposals attended any of those meetings?
A I don't recall.
Q Of the initial eight proposals that were received, was there a time later where a smaller number of proposals were considered?
A Obviously that's the case.
Q I'm asking for your recollection.
A Yes.
Q How were they culled out from the group of eight?
A I don't know. I don't recall.
Q Do you know in what form it was done? Was it done in a meeting? Was one person responsible for it?
A I don't know the answer to that. I know that the only restricting factor that I can recall is that we wanted Arkansas connections.
Q Just so I'm clear about how the committee operates and what needs to be public and what doesn't, the only reason I asked the question is, the last full paragraph on the April 24th board meeting

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minutes says "Mr. Erxleben suggested this meeting be a closed meeting as it will be a working committee meeting."

Is there a special provision for closed meetings or working committee meetings?

A I'm not aware of that.

Q Were you ever at a closed meeting of the committee?

A Not to my knowledge. I thought they were all open.

Q Were you at a meeting where the firms were whittled down to four firms who were competing for the underwriting contract for the police radio system?

A I don't recall.

Q I would like to -- let me take some of these documents out of your way.

A Sure.

Q Turning to document Bates stamped DKSN 027166 and 027167, this document has been stapled. I can represent to you that it wasn't stapled when we received it, even though the Bates stamps are in

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succession.

(Witness examined the document.)

A I have read it.

Q The first page of the document is minutes of the meeting of the financial screening committee for the communication system, dated May 7, 1985.

Halfway down the page, there is a list of four underwriting groups or firms that are listed. Of the firms that are listed there; Dabbs Sullivan, First Capital Resources, and a joint proposal with T.J. Raney, E.F. Hutton & Company and Lasater, and Stephens Incorporated, were those the four finalists for the underwriting contract?

A Yes.

Q Down two paragraphs below that, it reads "however, the committee did express some reservations about the Raney, Hutton, Lasater group because of the recent publicity involving E.F. Hutton & Company. It was suggested that the company be required to explain the situation during their oral presentation."

Do you recall those discussions taking

place?
A Yes.
Q What is your recollection of those discussions?
A Nothing, other than what this press article states.
Q Did you recall how the subject came up during the meetings?
MR. PORTNOY: Can the record reflect what the press article is?
MR. O'CALLAGHAN: Sure, yes.
BY MR. O'CALLAGHAN:
Q I would like to ask you independently of looking at the article.
A Oh, I'm sorry.
Q There is a press article and the second page reads "board queries company's ties to E.F. Hutton."
MR. PORTNOY: Do we have a date and a source?
MR. O'CALLAGHAN: "Democratic capital bureau" is listed on the by-line.

MR. HARDIN: It is Democrat capital bureau.
MR. PORTNOY: The Arkansas Democrat.
MR. O'CALLAGHAN: From May 8, 1985.
BY MR. O'CALLAGHAN:
Q My question was do you recall how that subject came up in the meeting.
A E.F. Hutton had been fined for something on a national scale, and I don't really recall what their violation was. But there was concern about that.
Q Do you remember who brought it up?
A I believe Win Rockefeller brought it up.
Q What comments did he make with regard to that?
A Just an expression of concern that they had been fined, and we needed to have full confidence in the firm if they were selected.
Q Did other members of the committee express concern, other than Mr. Rockefeller?
A I don't recall.
Q Did you express any concern?

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A Yes.
Q What did you say about it?
A Basically echoed what Win said.
Q Anything in addition, other than having concerns?
A No.
Q Did anyone suggest that reconsideration should be given to whether the Hutton, Lasater, Raney group should be in the running for the bond underwriting contract?
A I don't recall.
Q No recollection of that?
A No.
MR. PORTNOY: You have no recollection -- you don't remember if it occurred, or you have an affirmative recollection that it did not occur?
THE WITNESS: I don't recall if it occurred.
MR. PORTNOY: Thank you.
BY MR. O'CALLAGHAN:
Q Did any of the committee members at any point suggest that Raney, Hutton and Lasater should

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be disqualified due to concerns related to Hutton's legal problems?
A I don't recall that specific language.
Q How about that general sentiment, that they should be taken out of consideration?
A I remember Commissioner Raff at a commission meeting suggesting that.
MR. PORTNOY: The record should be clear that this document appears to state that Commissioner Raff was not present at the financial screening committee meeting. So, that recollection presumably would have been from another time.
THE WITNESS: From a commission meeting, a subsequent commission meeting, yes.
BY MR. O'CALLAGHAN:
Q He wasn't on the screening committee?
A That's correct.
Q So he wouldn't have been at the meeting anyway?
A That's correct.
MR. PORTNOY: Off the record.
(Discussion off the record.)

BY MR. O'CALLAGHAN:
Q I asked you -- or I said that he wasn't -- that Commissioner Raff --
A He wasn't in attendance at this meeting.
MR. PORTNOY: Which is different from not being eligible to attend or serving on the committee.
THE WITNESS: That's correct, that's correct.
BY MR. O'CALLAGHAN:
Q At what point did you feel satisfied that your analysis of the proposals was complete?
A Say that again.
Q At what point did you feel that your analysis of the proposals was completed?
MR. PORTNOY: Are you asking him personally or the commission?
MR. O'CALLAGHAN: His analysis.
MR. PORTNOY: I wanted it clarified. Your analysis individually.
THE WITNESS: I don't know really how to answer that. When I finished my present value

computation, I felt confident in the numbers. But due to my fiduciary responsibility to the public, I wanted to get independent corroboration.
BY MR. O'CALLAGHAN:
Q When had you concluded -- let me ask this question first. Which firm's proposal did you think was --
A Was the cheapest for the state?
Q Which firm's proposal did you finally decide that the committee should adopt?
A As you saw from the numbers, First Capital and Raney, Hutton and Lasater were neck and neck. When you considered that the Raney, Hutton and Lasater concept called for delayed payments, which allowed for more arbitrage to be credited against that present value cost, clearly that made them the best concept.
Q When did you come to that conclusion?
A I felt strongly that was the answer after my analysis, but I felt very confident after seeing Mr. Myers's analysis and after discussing the matter with him.

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Q So, was the component of the Hutton, Raney, Lasater proposal that allowed for delayed payments the element that made the difference between that proposal and the other proposals?
A That was part of it. Under the Internal Revenue Code at that time, you could mitigate or defray the cost of a bond issue by debt service arbitrage. They made maximum use of that, and that's what made their proposal the better proposal.
Q Did you attend a commission meeting on May 10, 1985?
A I don't know.
Q I would like to show you a document which bears a Bates stamp DKSN 027185, 027186, 027187.
A Okay.
(Witness examined the document.)
Q Looking at the first page of this document, have you seen the first page of this document before?
A Yes.
Q Where did you see that?
A At the commission meeting.
Q Did you see it -- there are some

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handwritten notations that appear on there. Did you see it with the handwritten notations on it?
A No, no.
Q Do you recognize any of the handwriting on the document?
A No.
Q Looking at the second page, they both read "agenda, Arkansas State Police Commission meeting" and the first page has agenda items 1 through 7, and then a line with a list of proposals and 1, 2, 3, 4 which is cut off a little bit on my copy. The page 27186 has numbers 1, 2, 3, 4, 5. I am wondering if you recall whether you saw the first or the second page.
A I would have seen the second page.
Q Were you at the State Police Commission meeting where the four firms, Dabbs Sullivan, Stephens Inc., First Capital Resources and the group of T.J. Raney, E.F. Hutton and Lasater & Company, gave oral presentations?
A Yes.
Q Do you know how the order of the

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presentation was determined?
A No.
Q Did you listen to all the proposals at that meeting, all the oral presentations?
A Yes.
Q Had you arrived at a decision by the time of that meeting of which firm you thought had the best proposal?
A Yes.
Q Was that the T.J. Raney, E.F. Hutton, Lasater & Company proposal?
A Yes.
Q The third page of this document, 27187, reads "Arkansas State Police communication system monthly payments. Anticipates an "A" rating, 11 years revenue pledged driver's license fees."
Have you ever seen this document before?
A I don't recall.
MR. PORTNOY: Did the committee receive these documents stapled as a single document?
MR. O'CALLAGHAN: These aren't stapled. They are paper clipped.

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MR. PORTNOY: They are sequential, so you are treating them as a single document?
MR. O'CALLAGHAN: As they are presented. I am not indicating these were originally together.
MR. PORTNOY: I just wanted to be clear on that.
MR. O'CALLAGHAN: Okay.
THE WITNESS: What was your question?
BY MR. O'CALLAGHAN:
Q The third page of the document, 27187, whether you have ever seen that before.
A I don't recall.
Q Did you see any spreadsheets of this nature while you were doing your analysis?
A I don't recall. Probably.
Q Were driver's license fees pledged as revenue for the bond underwriting for the police radio system?
A Yes.
Q How did that work, the best you can describe it?
A I don't know all of the inner workings of

state government, but I assume with the enabling legislation, they appropriated $290,000 a month, or whatever the number was, to apply against this bond issue.

Q When you say they applied it against the bond issue, how is that money applied? What does it go toward?

A For debt service.

Q So it pays off interest on the bonds?

A Correct; interest and principal.

Q During the May 10th meeting, after the firms gave their oral presentations, was there any action taken by the committee with regard to the proposals?

A I don't recall.

Q Do you recall whether you made a recommendation with regard to any of the proposals, whether the committee should accept one or the other?

A I may have made a recommendation on behalf of the committee.

Q I have something which hopefully will refresh your recollection. It is a copy of the board

minutes, the commission meeting minutes, Arkansas State Police, May 10, 1985.

(Witness examined the document.)

MR. O'CALLAGHAN: Let's go off the record.

(Discussion off the record.)

(Whereupon, at 12:40 p.m., the deposition was recessed, to be reconvened at 1:30 p.m. this same day.)

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AFTERNOON SESSION (1:35 p.m.)

Whereupon,

JOHNNY B. MITCHUM

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

EXAMINATION (Continued)

BY MR. O'CALLAGHAN:

Q Before we went off the record for lunch, I had shown you a copy of the minutes of the Arkansas State Police Commission meeting for May 10, 1985.

Did you attend a meeting of the State Police Commission on May 10, 1985?

A Yes.

Q Was that the meeting where the oral proposals were given for the four financial firms competing for the Arkansas State Police radio system underwriting?

A Yes.

Q On the second page, after the presentation of proposals, underneath that heading, about two-thirds of the way down the page there is a paragraph which reads "Commissioner Johnny Mitchum

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had prepared a brief summary comparison of the four proposals and distributed copies to the commission."

Do you recall preparing a brief summary comparison of the proposals?

A I really don't recall preparing a summary. I think that I may have passed out a copy of the summary sheet from Myers.

Q The top sheet or all the numbers with all the run sheets?

A I don't recall.

Q You think you handed them something that he prepared?

A I think so.

Q The next sentence, "his conclusion was that they must accept the best concept or format rather than the cost outline and that Raney, Hutton, Lasater offered the best plan." Do you recall articulating that?

A Yes.

Q Could you expand on what exactly you said and what your thinking was.

A Okay. Under the Internal Revenue Code at

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that time, you could invest debt service funds in taxable securities even though the bond coupons themselves were nontaxable. As a rule, taxable securities yield a higher yield than nontaxable securities.

So, the logic was that the higher the debt service reserve you could utilize, the more income you could generate from those invested funds, thereby reducing the net cost of the overall issue.

Q By making money on the difference between the return on the taxable over nontaxable?

A That's correct and investing -- buying in one market, if you will, and selling in another. That's simply what arbitrage is.

Q With regard to using the debt service funds for that purpose, could you explain exactly what that debt service fund is?

A It is basically a reserve account that would be used first and foremost in the event of default, the bondholders would be protected at least to the extent of those funds, and then at the end of the bond issue, that fund would usually be used to

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make the last payment or two under the issue.

Q And you explained that the Lasater, Hutton, Raney proposal had a better debt service fund feature to their proposal?

A Correct.

Q Did any of the proposals have debt service funds?

A Yes. It would be required under federal bond law to have a debt service reserve.

Q What was the distinction between the Raney, Hutton, Lasater debt service fund and the other funds?

A Theirs was bigger. They were proposing a larger fund. Basically the larger the bond issue, the larger their debt service reserve.

Q The how would they achieve creating a greater debt service reserve or fund?

A I suppose that you can only take -- you could have taken that only so far under the code. They were just basically more bold with their approach.

Q Was that tied in to the payment schedules

associated with the offering?
A Yes. It is all interrelated.
Q Do you recall whether there were any complaints raised about the way the Raney, Hutton, Lasater deal was constructed?
A There were complaints after the fact by the unsuccessful proposers.
Q Do you recall, were there any complaints made during that meeting on May 10th?
A I don't recall.
Q After the portion I just read to you, there is a paragraph which reads "some of the firms at this time requested permission to revise the proposals as they felt there had been some misunderstanding of the Act."

Do you recall that happening?
A Yes.
Q Could you describe what happened with regard to that?
A Well, I think that -- I don't remember the entire discussion, but basically when you send out RFPs and you get them back, you analyze them and you

pick the best deal; and you don't reopen the thing. Out of a sense of fairness, you don't keep it open for people to keep coming at you until they are successful.
Q It says here that some of the firms requested permission to revise the proposals as they felt there had been some misunderstanding of the Act. What was the misunderstanding that existed?
A I don't know. I mean, I don't recall why they felt they misunderstood. It was there for all of them to read and research.
Q Were there any complaints made that the Hutton, Raney, Lasater proposal didn't comply with the terms of the Act, the way that the financing should be structured?
A No.
Q Do you know who Neil Hertenstein is?
A The name is vaguely familiar, vaguely familiar.
Q Did you attend any of the meetings with regard to the financing contracts that took place in the Arkansas legislative council?

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A The hearing to review the --
Q The contract, or whether or not to approve the contract that the commission entered into.
A Yes, yes, I did.
Q Did you attend a meeting which took place a week after the May 10th meeting?
A Was that before the legislative council?
Q Before the legislative council, yes.
A Yes, I did.
Q Do you recall whether any concerns were raised or complaints about the way the Raney, Hutton, Lasater proposal was structured with regard to payment schedules?
A No, I don't recall that.
Q I would like to show you a document Bates stamped DKSN 027211 through 027222. It is minutes of the meeting of the Arkansas legislative council from Friday, May 17, 1985.
I will direct your attention to a specific portion of it. Just so we are clear, you attended this meeting; is that right?
A Yes.

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Q I would like to direct your attention to the third page of the document, which is Bates stamped 27213.
A Yes.
Q I would like to direct your attention to the beginning of the last paragraph.
A Yes.
Q It begins "Chairman Benham." If you could read --
MR. PORTNOY: What page is this?
MR. HARDIN: The third page.
BY MR. O'CALLAGHAN:
Q If you could read starting there and continue through the paragraph that begins on the next page, through the end of the second paragraph.
A What did you say?
Q I'm directing your attention to the paragraph that begins on the bottom of page 3, and read through the rest of that paragraph as it continues to the next page, and then the paragraph following that.
A Okay.

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(Witness examined the document.)
Q After reading that portion of the minutes, does that refresh your recollection as to who Neil Hertenstein is?
A Yes. He sent flowers to my daughter when she had a car wreck.
Q Do you recall him making comments at the meeting?
A Yes.
Q With regard to the statement that "Mr. Hertenstein stated that his company was proposing that the state make payments on a monthly basis, which incidentally was stipulated in the legislation passed at the last session of the Arkansas general assembly, Raney, Hutton, Lasater proposal proposed annual and semiannual payments."
Do you remember him making those comments?
A Vaguely.
Q Is that statement accurate?
A Yes.
Q Is there a problem with the proposed payment schedule that the Raney, Hutton, Lasater

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proposal had with regard to the legislation?
MR. PORTNOY: Let me clarify something. Are you saying that it is accurate as in the statement is true, or it is accurate as in the statement accurately reflects what Mr. Hertenstein said?
THE WITNESS: I think that it is accurate as to what he said. Would you restate the question.
BY MR. O'CALLAGHAN:
Q Sure. The question is whether the statement, the characterizations made in the statement are accurate.
A That the Raney, Hutton and Lasater --
MR. PORTNOY: That Mr. Hertenstein said?
MR. O'CALLAGHAN: Yes.
THE WITNESS: Their proposal called for annual and semiannual payments, the Raney, Hutton, Lasater proposal. The other proposals called for monthly payments. Is that your question?
BY MR. O'CALLAGHAN:
Q Yes.
A Yes.

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Q There is another portion that said that the legislation passed in the Arkansas general assembly called for monthly payments. Is that your recollection?
A I don't recall. I haven't read that in I don't know how long.
Q Do you recall whether that ever came up as a problem with regard to the payment schedule?
A Apparently it did. That's what it says.
Q Other than this?
A No.
Q Did the Raney, Hutton, Lasater proposal -- after the proposals were made, and Raney, Hutton and Lasater was hired, were the payments made on a semiannual and an annual basis or made on a monthly basis?
A I have no idea.
Q I would like to show you a document which bears Bates stamps DKSN 018193 through DKSN 018199. The document I just handed to you reads "Act date 1/7/1985 for the bill. It is for 'an act authorizing the leasing of communications equipment for the

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department of the Arkansas State Police providing for the payment and security of the cost of equipment and for other purposes'."
The text of the Act follows. The last page, signature approved by Bill Clinton, and the date is 4/4/85.
(Witness examined the document.)
A Yes.
Q Have you seen a copy of this bill before?
A Yes.
Q When did you see it?
A In various times. I can't tell you exactly when.
Q How did it come to your attention?
A It was probably presented to the commission for review.
Q Is this the Act authorizing the financing of the police radio network that we have been talking about?
A Correct.
Q Are you familiar with this -- are you pretty familiar with this bill?

A It has been a long time since I have read it.
Q During the time you were working on getting the financing for the deal done?
A Yes.
Q I would like to direct your attention to page 5, which is Bates 18197.
A Yes.
Q The last paragraph reads "payments to cover the cost under the lease agreement shall be paid from the lease fund on a monthly basis."
Could you tell me what your understanding is as to what that refers to?
A I believe that would indicate that the payments on the debt would be made on a monthly basis.
Q Is that consistent with Mr. Hertenstein's comments?
A Yes.
Q In the minutes we just read?
A Yes.
Q Did anyone from the legislative council

seek any guidance or advice from the commission with regard to whether or not the Raney, Hutton, Lasater proposal didn't comport to the requirements of the legislation?
A The legislative council didn't ask me anything, and I can't speak for anyone else.
Q Do you have any knowledge of whether --
A No.
Q Was that something -- was the payment schedule an issue that was discussed by the committee?
A I don't recall. On matters such as that, we simply referred to the state purchasing department, and we assumed that they would steer us correctly on that, Ed Erxleben and the other fellow.
Q Do you know what the other person's name was? Is he in the minutes?
A Yes. I can't remember.
Q Did you have any contact with Michael Gaines in the Governor's office after the Raney, Hutton, Lasater group's proposal was chosen?
A I never had any contact with Michael Gaines

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other than at the commission meetings.
Q How about Betsey Wright? Have you ever had any contact with her?
A No.
Q Did the Governor's office seek any guidance from the committee about the details of the bond underwriting after the contract was already awarded?
A Not to my knowledge.
Q Did the financing contract that was entered into with the State Police and the Raney, Hutton, Lasater group, did that have to be approved by the state legislature?
A The legislation itself I believe called for review and counsel, or advice and counsel, and not advice and consent. So, therefore, it did not require.
Q The need for formal passage; is that right?
A That's correct.
Q Did the council vote on whether or not they approved of the contract?
A They did, and I think it was a split vote, so we went away without a mandate, if you will.

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Q Did the committee take any steps to convince members of the legislature that they should vote in favor of the contract?
A No.
MR. PORTNOY: I want to be clear. You mean the police commission?
MR. O'CALLAGHAN: Yes.
MR. PORTNOY: I thought you said committee. We have been throwing around so many commissions, committees and councils, I want to be sure.
THE WITNESS: We made our presentation and reported our findings and what we wanted to do. And they voted on that, and it was split.
BY MR. O'CALLAGHAN:
Q Was that during the May 17th meeting?
A I don't recall whether it was at that meeting. I guess it was, yes.
Q So, what was your reaction after the contract wasn't initially approved by the legislature?
A I don't know that I really had one. We

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would have liked to have had unanimous support of what we had concluded. But I guess beyond that, I didn't have any feelings.

Q Would you say you put a lot of work into analyzing proposals and working on getting the contract done?

A Yes.

Q Was it your belief that the contract would have gone through without the approval of the legislature?

MR. PORTNOY: I think the testimony was the approval of the legislature was not required.

BY MR. O'CALLAGHAN:

Q I'm asking you whether you still believe it would be entered into and followed through with.

A I am confused.

Q You said earlier that they just needed --

A Advice and counsel.

Q Was it your understanding the contract would still go through if the legislature did not approve the contract?

A Well, at that point --

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MR. PORTNOY: At what point? You mean before the legislature acted or voted? Afterwards? I'm kind of confused.

BY MR. O'CALLAGHAN:

Q Between the time of the first vote where it wasn't approved and it was later approved, is that right, by the legislative council?

A I don't recall.

Q If initially the legislative council didn't approve -- initially they didn't; is that right?

A Yes. I see what you are saying. I believe the commission would have stayed with its position. A majority of the commission would have stayed with that position, because we felt like it was the cheapest deal for the state.

Q If the legislature didn't approve of it with the advice and counsel, if they didn't give a positive vote --

A I think we would have went ahead with the one we felt was cheapest for the state.

Q Would that have required an additional vote?

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A Of the commission?
Q Yes.
A Yes. In fact, we did subsequently vote.
Q When did that take place?
A I can't recall. But the final -- we voted after the legislative council, I think.
Q That vote occurred after the --
A I know it occurred after the first meeting. I would assume there was a second meeting of the council. I can't recall.
Q Do you recall whether it was after the deal had been approved, or in between the time?
A I don't recall. Sorry.
Q I would like to show you a document Bates stamped DKSN 027850 through DKSN 027873.
I'm going to direct your attention to some specific portions of it and ask you generally if you recognize it.
A Okay.
(Witness examined the document.)
BY MR. O'CALLAGHAN:
Q Have you seen this document before?

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A I don't recall.
Q Referring to the first page of the document, which reads "presentation to the State Police Commission of the state of Arkansas as prepared by T.J. Raney & Sons, Inc., E.F. Hutton and Lasater & Company.
A Yes.
Q And then the second page is the first portion of a cover letter on E.F. Hutton letterhead dated April 22. It is addressed to Mr. David Mosley.
After my directing your attention to that portion --
A Yes, I recognize it now as their proposal.
Q From T.J. Raney, Hutton and Lasater?
A Correct.
Q I would like to direct your attention to the second page, 27851.
A Okay.
Q The third paragraph there reads, halfway through, "based upon these assumptions, subject to additional facts which are learned or developed and

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based upon current market conditions, the financing we propose provides for principal and interest payments of approximately 3.17 million per year and effective cost of borrowing of 4.4 percent per year."

Do you recall that was the cost of borrowing proposed by the Raney, Hutton, Lasater group?

A Yes.

Q Was the effective cost of borrowing an important aspect of the proposal?

A Not really, because of the discount premium relationship which makes the effective amount different.

Q Can you explain that?

A I'm a little rusty, but I think 4.4 percent would have been the coupon rate. If bonds are issued at a premium, then a 4.4 percent rate on the face would be an effective rate of less than that and a discount would make the effective rate more than that.

Do I have it backwards?

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MR. PORTNOY: Let's go off the record.

(Discussion off the record.)

THE WITNESS: Premium increases rate. Discount decreases the rate.

BY MR. O'CALLAGHAN:

Q Did the effective cost of borrowing vary in the different proposals?

A Yes.

Q And if you can identify this, what caused the difference in the different effective costs of borrowing quoted in the different proposals?

A The debt arbitrage fund was the primary factor.

Q Was the Hutton, Lasater, Raney proposed effects of cost of borrowing lower than the other proposals?

A I don't recall. I assume it was.

Q Did you have any involvement in the execution of the underwriting contract for the State Police and Raney, Hutton, Lasater?

A No.

Q Are you aware of what effective cost of

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borrowing they were able to offer at the time of the offering?
A No.
Q Have you ever heard what it was?
A I have heard, but I don't recall.
Q Do you remember whether it was more or less than 4.4 percent?
A I don't recall. I do remember hearing the State Police say that the department was very pleased because market conditions became very favorable.
Q Did you ever hear reports that the Raney, Hutton, Lasater group was quoting rates that were lower than what they actually thought they were capable of delivering?
A No.
Q I think I have one more question on that document. Page 27856, please.
A Yes.
Q I think that is page 3 of the actual proposal. Down that page, there is a number 5 which reads "underwriters discount is 2.5 percent of the issue size." What does that refer to?

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A Basically that is the underwriter's fee for putting the thing together.
Q Did those vary between the different proposals?
A I don't recall.
Q If the underwriter's fee is a higher percentage, who incurs that cost? Would the State Police incur the cost? Would the bondholders?
A It would figure into the effective rate.
Q The rate we just discussed?
A Yes. It would be a factor in determining the net present value cost of the overall package.
Q Is there a direct relationship between the underwriter's discount and the rate?
A Yes.
Q Was the amount of the rate proposed by the different groups -- let me strike that.
Were the firms that were competing for the underwriting contract, were they provided with copies of proposals of the other firms that were competing for the contracts?
A I'm sure they were.

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Q Was that done on a uniform basis, or were some firms given proposals and some not?
A I don't know the answer to that.
MR. PORTNOY: Could you clarify when you mean, because I gather all the firms turned in their initial proposals at the same time.
MR. O'CALLAGHAN: Prior to May 10, which would have been the oral presentations and when the commission made their decision.
MR. PORTNOY: By that, there were only four firms remaining at that point?
MR. O'CALLAGHAN: Yes.
MR. PORTNOY: We are not talking about the eight firms receiving the proposals from each other?
MR. O'CALLAGHAN: The four firms is fine.
THE WITNESS: If they wanted them, they could have gotten them.
BY MR. O'CALLAGHAN:
Q How about prior to -- strike that.
Do you recall what the basis was for the opposition to the contract from those members who voted against it in the legislature?

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A Not really.
Q Do you recall whether it was based upon concerns about the lawsuits or suits filed against E.F. Hutton?
A I'm sure that is part of it.
Q Was that one of them?
A Yes.
Q Did the commission and the committee conduct any due diligence with regard to the underwriting firms that were making proposals?
A I assume that state purchasing did that.
Q That would have been --
A That would have been their job to have done that.
Q Were you provided with due diligence summaries or files from them?
A I don't recall.
Q Do you know if anyone reviewed disciplinary histories of the firms that were submitting proposals?
A I don't recall.
Q Was there any review done of the net

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capital levels of the firms that provided proposals?
A I don't recall. I would certainly think there would have been.
Q Would that have been done by state purchasing or by the committee?
A By state purchasing.
MR. HARDIN: Did you say net capital requirements?
MR. O'CALLAGHAN: I think net capital levels, I said. If I said requirements, I meant levels. I apologize if I misspoke.
BY MR. O'CALLAGHAN:
Q Did anyone in the Governor's office meet with any of the state legislators in an effort to convince them to approve the contract, the underwriting contract for the State Police?
A I have no knowledge of that.
Q Have you ever heard that?
A No.
MR. O'CALLAGHAN: Read back my question, please.
(The reporter read the record as requested.)

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BY MR. O'CALLAGHAN:
Q Including in the Governor's office, that question includes the Governor. Do you know if he did?
A I read in the paper that he did, but I have no personal knowledge that he did.
Q Are you aware whether anyone who was on the commission at the time had knowledge of a meeting with the Governor and members of the legislature on this issue?
A Say that again.
Q Are you aware if anyone who was on the commission at that time had knowledge of a meeting with the Governor and the legislature on this issue?
A No.
MR. PORTNOY: He testified that he wasn't aware that any meetings occurred. It would be difficult for him to be aware that someone else had a meeting.
MR. O'CALLAGHAN: He said he read it in the paper.
MR. PORTNOY: You are not speaking about

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contemporaneous knowledge; you are speaking about whether he now has any knowledge?

MR. O'CALLAGHAN: Yes, at any time.

BY MR. O'CALLAGHAN:

Q Did the committee have any oversight over the underwriting of the bonds?

A No.

Q Did they have any involvement in determining how the debt service fund would be arbitraged?

A No.

Q Do you know who conducted that?

A No.

Q Are you familiar with anyone by the name of Dan Lasater?

A Yes.

Q How are you familiar with Dan Lasater?

A If you live in Arkansas, you have heard of Dan Lasater.

Q Have you ever had any personal contact with him?

A I have met him.

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Q When did you meet him?

A I don't recall when I met him first.

Q Have you met him more than once?

A Probably twice or three times. I don't know.

Q Did you know him during the time period 1984 through 1985?

A No.

Q So you met him after that?

A Yes.

Q Did he have any meetings with anyone at the police committee commission --

A Did Dan Lasater?

Q Yes.

A Not to my knowledge.

Q Do you know or have you ever heard whether anyone at Lasater & Company attempted to provide the Governor or anyone in the Governor's office with money or compensation in connection with bond underwritings?

A No.

Q Are you aware of whether anyone has ever

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offered cash to a member of the Arkansas State Police Commission in connection with the police radio bond underwriting?

A No.

Q During the period 1984 through 1985, did it ever come to your attention that Dan Lasater was under investigation for any criminal activity?

MR. PORTNOY: I'm going to object to that question. If you want to ask the witness whether he had any basis for having doubts about the retention or the use of the Lasater firm, that's fine. But our understanding is that it is outside the scope of the Resolution to talk about this kind of generalized issue.

MR. O'CALLAGHAN: There is no understanding to that effect at all. It is completely within the scope of the Resolution, the propriety of granting the bond underwriting firm to Lasater & Company. I have stated that on the record before.

MR. PORTNOY: Let's go off the record.

(Discussion off the record.)

MR. O'CALLAGHAN: In responding to an

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objection made by Mr. Portnoy -- and Mr. Lance Cole from the Minority has just joined us -- it is the Majority's position with regard to the question I just asked Mr. Mitchum about his knowledge of Mr. Lasater -- his knowledge about whether there is any criminal investigation of Mr. Lasater 1984 through 1985, it is the Majority's position that any knowledge that goes to those facts is relevant with respect to whether or not it was appropriate for the State Police Commission to be engaged in underwriting contracts with Lasater & Company and Mr. Lasater and with respect to whether or not he was under criminal investigation or had engaged in criminal activity during the time of that contract.

MR. COLE: Mr. O'Callaghan, you were not working for the committee at the time that the Resolution that created the committee was adopted by the Senate and prepared by the staff.

I think that probably the appropriate thing to do here is to ask Mr. Giuffra, the committee chief counsel, to come and join us on this issue.

I think he will recall that when the Senate

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passed this resolution and in the preparation of the Resolution, there was extensive discussion about the scope of inquiry into matters relating to Mr. Lasater, and the language of the Resolution is very clear as to the bond underwriting contracts between ADFA and Lasater, and I don't think that the rationale that you have articulated, where there is no basis in the record, which I understand from Mr. Portnoy to be the case, that there is any evidence that there is a relationship between the question that you have asked and the actual award of the underwriting contracts, and your question clearly is outside the scope of the Resolution.

I think we should have Mr. Giuffra join us, since he is the chief attorney for the Majority who was involved in the Resolution.

MR. O'CALLAGHAN: Certainly.

(Recess.)

MR. O'CALLAGHAN: Let's go back on the record.

MR. COLE: I think the pending objection has to do with the question that Mr. O'Callaghan put

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to the witness concerning the witness's knowledge of criminal investigations relating to Mr. Lasater.

After consulting with the Majority counsel, including Mr. Giuffra, the chief counsel of the committee, and discussing the purposes and legislative intent behind Senate Resolution 120, we have determined that rather than prolong the proceedings unnecessarily, that we will not object to asking this witness what he knows about pending criminal investigations because of this witness's status as a state law enforcement official and the possibility that he might have had access to confidential information concerning those investigations.

We do reserve our rights, however, with regard to other witnesses, and the withdrawal of our objection relates solely to this witness because of his special status as a state law enforcement official at the time in question, which was before the offering of the bonds that are the subject of this deposition.

MR. O'CALLAGHAN: Thank you, Mr. Cole.

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BY MR. O'CALLAGHAN:
Q Do you remember what the question was before we went off the record? I can restate it.
A Please restate it.
MR. COLE: Let's have the reporter read it back.
(The reporter read the record as requested.)
MR. COLE: Before you answer, sir, I would just note that the agreement that was reached among counsel while we were off the record would limit that question to the date of the offering of these bonds, which was May 1985.
MR. PORTNOY: The approval of the offering of the bonds, the approval of the bonds.
MR. COLE: The question goes to your knowledge at that time or before the bonds were offered. Is that clear?
THE WITNESS: Yes, that's clear.
MR. COLE: Thank you. So, you should go ahead and answer the question.
THE WITNESS: The answer is no.
BY MR. O'CALLAGHAN:

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Q Did anyone else on the State Police Commission have knowledge of any pending criminal investigations regarding Mr. Lasater?
A Not to my knowledge.
Q Did anyone in the Governor's office?
MR. COLE: I think, Mr. O'Callaghan, what you are doing is contrary to our agreement. We agreed with respect to this witness. We did not agree to any general inquiry as to the state of knowledge within the Arkansas state government.
There is no reason to believe this witness has any other, other than his own knowledge of his own agency. So I would object to further questions along those lines.
MR. O'CALLAGHAN: I think it is relevant because the Governor's office is part of the state government that necessarily would have some input on whether or not contracts should be awarded. The Governor appointed the commissioners of the police commission.
MR. COLE: I think it is clear if this witness had no knowledge himself before 1985 of this

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matter, of any investigation concerning Mr. Lasater at all, it is subsumed within that that he had no knowledge of what others knew about that. Am I correct in that, Mr. Mitchum?

THE WITNESS: That's correct.

MR. COLE: Basically you had no knowledge of any kind prior to May of 1985.

THE WITNESS: That's correct.

MR. COLE: So I think any further questioning is unnecessary and I would say very contrary to the agreement we just reached off the record.

MR. O'CALLAGHAN: May I ask his knowledge, whether he subsequently learned that people had knowledge of any pending criminal investigations involving Mr. Lasater, not just his knowledge at the time of whether anyone had knowledge of it?

MR. COLE: Did you subsequently learn, subsequent to May 1985, that anyone else in state government, other than the obvious, which would be the people conducting the investigation, had knowledge of this criminal investigation?

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THE WITNESS: Subsequent to all this bond business?

MR. COLE: In other words -- let's be clear. The question goes to your learning after May 1985 that people knew before May 1985 about this investigation.

THE WITNESS: No, I don't have any knowledge.

MR. COLE: I think that is really more than fair.

MR. O'CALLAGHAN: That covers it. I am comfortable with that. That's fine.

BY MR. O'CALLAGHAN:

Q Again, during the period 1984 through '85, did you have any knowledge that Dan Lasater provided a job to Roger Clinton?

A No.

Q Did you have any knowledge that he provided an $8000 loan to him?

A No.

Q Did anyone on the State Police Commission have knowledge --

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A I have no idea.
Q I have to finish the question.
A I'm sorry.
Q Did anyone else on the State Police Commission have knowledge that Mr. Lasater had provided Roger Clinton with a job?
A Not to my knowledge.
Q Did anyone on the commission have knowledge that Mr. Lasater provided Roger Clinton with an $8000 loan?
A Not to my knowledge.
Q Are you aware -- do you have any knowledge of the nature of Governor Clinton's relationship with Dan Lasater during the period 1984 through '85?
A No.
MR. PORTNOY: Assuming there to have been one.
BY MR. O'CALLAGHAN:
Q With regard to any funds that were raised in connection with the bond offering, both through the issuance of bonds and the use of driver's license renewal fees, were any of those funds invested in

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securities accounts at Lasater & Company?
A I have no idea.
Q Do you know whether any of those funds were invested in security accounts of any kind?
A I have no knowledge to that effect.
Q With regard to the debt service fund, were those funds -- you said those funds were used to invest in taxable securities; is that correct?
A That was my understanding.
Q Do you know if that actually happened?
A No.
MR. PORTNOY: I take that answer to mean you don't know, not that it didn't occur?
BY MR. O'CALLAGHAN:
Q You don't have any knowledge that it happened; is that right?
A That's correct.
MR. PORTNOY: You have no knowledge either way?
THE WITNESS: That's correct.
BY MR. O'CALLAGHAN:
Q Could the offering have been successful if

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that hadn't been done?
A I would assume so. I understand that the state is very happy with the results of the offering.
Q Was the investment in taxable securities --
A A major consideration, yes.
Q In order to invest those funds, would those have to have been placed through a brokerage firm, a securities firm?
A I don't know the answer to that.
Q Did anyone on the State Police Commission have any securities account at Lasater & Company?
A I have no idea.
Q And that includes you; did you have any accounts at Lasater & Company?
A No.
Q Do you have any knowledge of any campaign contributions made by members of Lasater & Company to Governor Clinton's gubernatorial or inaugural campaigns?
A Only what I read in the paper.
Q Other than that?
A That's it.

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Q Were any of the funds connected to the State Police radio bond underwriting held in any accounts at Madison Guaranty?
A I have no idea.
Q Who would have knowledge of where moneys were deposited in connection with the offering?
A I would assume that Mr. Mosley would have that knowledge, and perhaps the state treasurer.
Q Would that be the same with regard to moneys invested in securities accounts?
A Yes.
MR. O'CALLAGHAN: Let's go off the record for a second.
(Discussion off the record.)
BY MR. O'CALLAGHAN:
Q In or around February of 1985, were you aware of any newspaper accounts regarding testimony given in the trial of Sam Anderson that Dan Lasater was involved in illegal activity?
A I don't recall.
MR. PORTNOY: Now I will just state for the record that this question was discussed off the

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record between Majority and Minority counsel, and we agreed again that because of the witness's particular and unique position as an official of the police commission, the Minority would not object to his being asked that specific question. But we do reserve our rights in the future to object to similar questioning.

BY MR. O'CALLAGHAN:

Q Other than -- I asked you about whether you had knowledge about criminal investigations pending with regard to Mr. Lasater. During the period 1984 to 1985, did you have any personal knowledge of any illegal activity he was engaged in?

A No.

Q Let me restate that. That made it sound -- the question was were you aware that he was involved in any illegal activity.

A No.

Q During 1984 to 1985, how much contact did you have with Tommy Goodwin?

A At least once a month at a commission meeting and intermittently.

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Q Were you friends?

A Yes.

Q Did you see him outside of commission meetings?

A On occasion, to have lunch or something like that.

Q Was the commission kept abreast of the status of pending investigations during that time period?

A That was not in our purview, if you will. We were not in enforcement per se.

Q Were you ever kept abreast of any investigations?

A No.

Q Was it Colonel Goodwin? Is that his rank?

A Yes.

Q Did Colonel Goodwin ever relate to you details of investigations that he was involved in?

A He might have made comments at times about various investigations. Those would have been primarily related to personnel matters within the department, which was our primary charge.

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Q During 1984 through 1985, did Colonel Goodwin bring to your attention any investigations that had any relation to the bond underwriting contracts?
A No.
Q Or contract.
A No.
MR. HARDIN: What bond underwriting contract?
MR. O'CALLAGHAN: The police radio bond underwriting contract.
THE WITNESS: No.
BY MR. O'CALLAGHAN:
Q During 1985, did Colonel Goodwin make any inquiries as to whether there were any investigations pending with regard to anyone involved with the police radio bond underwritings?
A Say that again.
Q In 1985, did Colonel Goodwin make any inquiries as to whether there were any investigations being conducted that involved people involved in the state --

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A Inquiries to whom?
Q To law enforcement agencies.
A He didn't make any to me. Beyond that I don't know.
Q Are you aware of any interviews that were conducted by the State Police of Mr. Lasater during 1985?
A No.
Q Was anyone else in the commission aware of any interviews conducted by the State Police of Mr. Lasater?
A I don't know.
Q I just have a couple more general questions about the State Police underwriting for the radio contract.
Had the Arkansas State Police Commission ever issued bonds previous to the bond offering --
A Not to my knowledge.
Q -- for the State Police radio.
Was there consideration given to having another agency do the issuing of this bond offering?
A Not to my knowledge.

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Q Are you familiar with the Arkansas Development Finance Authority?
A Yes.
Q Were they consulted in connection with the bond offering?
A Not to my knowledge.
Q Was the fact that the State Police were financing this radio system through a bond underwriting, was that considered to be a unique bond financing project at the time?
MR. PORTNOY: By whom?
BY MR. O'CALLAGHAN:
Q Let me rephrase. In general -- there have been comments made that the police radio bond underwriting was a unique bond underwriting because it was the first bond underwriting in the state of Arkansas that wasn't a brick and mortar project.
Are you aware if statements have been made to that effect?
A Yes.
Q Would you agree with that?
A Yes.

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Q Was the Governor's office provided with copies of the various financing proposals that were submitted to the State Police Commission?
A I have no idea.
MR. O'CALLAGHAN: I have no further questions at this time. Thank you.
EXAMINATION
BY MR. PORTNOY:
Q Good afternoon.
A Good afternoon.
Q I have just a few areas to follow up on.
Would you describe in general terms what the role or duties of the police commission were.
A The State Police Commission is generally a policy-making body, most specifically in the area of personnel and personnel administration in that all promotions, demotions, firings, transfers, things of that nature have to be submitted to the State Police Commission for final approval.
Q And that was the bulk of your responsibility?
A Yes.

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Q Were there any other areas of responsibility?
A Advice and counsel to the director, review of budgets, things of that nature.
Q You didn't directly supervise any police operations, did you?
A No.
Q That was done by the director?
A Correct.
Q Did the commission appoint the director?
A No.
Q So, in the course of business, you generally would have no reason to know the nature or progress of police investigations?
A Correct.
Q I believe you testified that the one exception to that might be the intersection of a personnel matter and an investigation?
A Correct.
Q Either somebody was to be hired in order to staff an investigation or somebody who might be considered to be fired there was necessity to have an

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investigation, that kind of issue?
A That's correct.
Q You said that the commission reviewed the police department's budgets?
A Yes.
Q Did you draft the budgets?
A No.
Q That was done in-house?
A Correct.
Q Mr. Mitchum, you testified earlier that when you joined the police commission in 1982, the inadequacies of the communications system were already a subject of discussion?
A Yes.
Q Do you recall when the old radio system was acquired?
A Vacuum tube technology, 30 years before.
Q Would you describe it as having been antiquated? I believe you did.
A Yes.
Q You also testified that you understood that some troopers had been killed in part because of the

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failure of communication system?
A Yes.
Q Could you elaborate on that, please.
A There was a trooper in I believe the Texarkana, Arkansas area, and I can't remember his name right now. He picked up a speeding motorist, and he picked up the speeding motorist in what was commonly referred to as a dead spot, dead because his mobile radio unit could not contact his base operation. In the process of this stop, he was shot and killed.
Q And this was in part because he couldn't access his --
A He couldn't call in for backup or even notify his home base that he was making the stop.
Q So, the need for a new communication system was acute?
A Yes.
Q I would like to show you a document Bates stamped DKSN 017956 through 62, which is captioned "Arkansas State Police Executive Summary, Priority of Needs."

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I would ask you to direct your attention to the first page. Does that appear to be as described, a summary of the State Police priority of needs?
A Yes.
Q Have you ever seen this document before?
A I don't recall having seen this specific document. But I know that in my mind's eye, those items listed 1 through 3 were always talked about.
Q And for the record, what are numbers 1 through 3?
A Salary increases for the employees, new communications system and vehicle replacement.
Q Am I correct in noting that a new communication system is identified as the second highest priority for the State Police?
A Yes.
Q Does that comport with your understanding from the time?
A Yes.
Q Would it be fair to say that the police director and also the members of the commission communicated that need to others in the state

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government?
A If we didn't, we would be remiss in our jobs.
Q So, it would be fair to say that you did communicate that need?
A To anyone who would listen.
Q Frequently and loudly?
A Yes.
Q Turning to the period when you were considering various underwriters for the issuance of the State Police bonds, I would just like the record to be clear. Other than the underwriters themselves, did anyone try to influence you to select a particular underwriter?
A No.
Q Did anyone try to influence you not to select a particular underwriter?
A No.
Q What would you have done if someone made such an effort?
A I was in the CPA business for 13 years, and ethics was a cornerstone of my existence. I would

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have to weigh the ethical considerations on such an approach. If I deemed it inappropriate, then I would have to respond accordingly.
Q Would it be fair to say that an attempt to influence you to vote a particular way would not have been likely to have achieved the result sought?
A I think that is a fair assumption.
MR. HARDIN: I think he has testified, though, that some people during the process were making their sales pitches.
THE WITNESS: He said other than the underwriters.
BY MR. PORTNOY:
Q One would expect the underwriters to try and sell their business.
A They are the salespeople.
Q You testified earlier that representatives of the Governor's office attended commission meetings and also meetings of the subcommittee that looked into the police radio financing. I believe you also testified "they were just there, primarily just listened." Is that an accurate statement of your

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recollection of their participation?
A Yes. I never recall anyone from the Governor's office taking an active role in that process.
Q They didn't try to direct the commission to select a particular underwriter?
A No.
Q Or not to select a particular underwriter?
A Never.
Q Or to structure the deal in any way?
A No.
Q They just observed?
A Correct.
Q Did I also understand you to testify that outside the context of these meetings, you never had any discussion with anyone from the Governor's office with respect to the police radio underwriting?
A That's correct.
Q You did, however, get frequent calls from the underwriters themselves?
A Yes.
Q From all of them?

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A Yes.
Q Including Lasater & Company?
A Yes.
Q Including Raney?
A Yes.
Q And Hutton as well?
A Yes.
Q In the course of those discussions with the representatives of Lasater & Company and Raney and E.F. Hutton, did you ever have any reason to believe that somehow a fix was in and that they expected to get the contract?
A No.
Q Would you say that their approach to you was similar to that of all the other underwriters; they were trying to convince you to pick them?
A Yes.
Q Did you ever have any reason to believe in the course of your entire participation in the awarding of the bond contract that somehow the fix was in and that a particular company or consortium was supposed to be selected?

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A No.
Q Would you describe the process as having been open?
A Yes.
Q Inclusive?
A Yes.
Q Fair?
A Yes.
Q You also testified earlier that you made as a board the decision to require participation by firms that were doing business in Arkansas?
A Yes.
Q Could you explain why you did that?
A I think it is always good to do business at home, if you can get a competitive price at home.
Q Would it be fair to say that since you were paying fees, it seemed appropriate to put the money in Arkansas?
A Exactly.
Q That decision wasn't related to an effort to direct the business to any particular underwriter, was it?

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A Absolutely not, not in my mind's eye.
Q Are you aware of anybody else who might have viewed the Arkansas requirement as part of an effort to direct the business to a particular underwriter?
A No.
Q Do you have any reason to believe that that requirement was anything other than a straightforward attempt by the state government to benefit the state?
A No.
Q Do you recall whose idea it was to require that the underwriters have a connection to Arkansas?
A No.
Q Do you recall whether the Governor's office expressed any views on that?
A No.
Q You testified that you split into what I have been calling the subcommittee to review the financing proposals and that staff members received the proposals; is that correct?
A Correct.
Q And they compiled them somehow?

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A Yes.
Q They attached a worksheet of some kind?
A Yes.
Q Did they rank the proposals?
A No.
Q That was left to the members of the commission?
A Yes.
Q In the process of reviewing proposals, you retained an actuary, Mr. Myers?
A Yes.
Q And you intended initially to pay Mr. Myers yourself?
A Yes.
Q Did you discuss your intention to retain Mr. Myers with anyone before doing so, outside of counsel?
A No.
Q No one else on the commission?
A No.
Q So, this was a decision you made independently, simply to assure yourself that you

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were doing the best thing for the people of the state?
A That's correct.
Q Do you have any reason to believe that Mr. Myers had any kind of connection to any of the underwriting applicants?
A Absolutely not.
Q Did you ask him that?
A No.
Q You just know that he didn't?
A Yes.
Q You indicated earlier that your instructions to him were to determine which proposal would cost the least, in effect?
A That's correct.
Q Did you give him any other instructions?
A No. I might add, I did not tell him what I had concluded either.
Q Had you reached your conclusion -- let me go back a step. You testified earlier that you had concluded that the Raney, Hutton, Lasater proposal was the least expensive?

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A Correct.
Q Had you reached that conclusion before you retained Mr. Myers?
A Yes.
Q So, you retained him to confirm or corroborate your view?
A That's correct.
Q And in your estimation, did he corroborate your view?
A Yes.
MR. PORTNOY: Off the record.
(Discussion off the record.)
BY MR. PORTNOY:
Q Mr. Mitchum, let me show you a document numbered DKSN 001406 through 22. I have a copy for your counsel as well.
Is this the document that Mr. Myers prepared?
(Witness examined the document.)
A Yes.
Q I asked you to identify it again, simply because the copy that I have has a different Bates

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stamp number than the copy Mr. O'Callaghan has and I want to be clear we are talking about the same document.
You indicated --
MR. HARDIN: Just as an observation off the record.
(Discussion off the record.)
MR. PORTNOY: I would just state for the record that counsel has observed that this copy of Mr. Myers's work product appears to have a computer-generated date on the top of some of the pages of May 9, 1985. The copy that Mr. O'Callaghan referenced before had a cover sheet with a date of May 10th, which may suggest that these documents were prepared on May 9th and then transmitted on May 10th.
MR. HARDIN: Or possibly iterations.
MR. O'CALLAGHAN: The copy I showed you had the May 9th date on the top, following the cover page, one of the two copies I showed you.
THE WITNESS: Okay.
BY MR. PORTNOY:

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Q Sir, I would ask you to turn to the page Bates stamped 1420.
A Okay.
Q At the top of the page, just before the chart begins, there is an entry "present value net payments."
A Yes.
Q And that is $18,101,700?
A Correct.
Q What does that figure represent?
A That is the net present value cost of all of the revenues associated with this flow of funds deducted from the net present value of all of the expenditures of this flow of funds using a discount rate in this case of 10 percent.
Q For the laymen among us, would it be fair to say that that's how much this proposal by Raney, Hutton --
A Would cost in 1985 dollars.
Q Would cost the state of Arkansas in 1985 dollars?
A That's correct.

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Q I would ask you to turn to the page 1420.
A Yes.
Q Would I be correct in saying this reflects the analysis of the First Capital Resources proposal?
A Yes.
Q Looking at the present value net payments, it states that the present value net payments would be 18,073,030.
A Correct, why we did not select that one.
Q That's precisely the question, sir. There appears to be a $28,000 difference in price or cost to the state of Arkansas. I understood you to testify earlier that it was your view that you had selected the proposal that would be least expensive to the state of Arkansas. I was wondering if you could clarify for the record why the Raney, Hutton, Lasater proposal in your view was less expensive.
A These numbers do not reflect the benefit that would result from deferring the first payment for 13 months. In essence, the interest that would be earned on the pot of money for that period of time would mitigate the Raney, Hutton and Lasater amount

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to an amount less than $18,101,000, substantially less than.

Q It would be fair to say that although this document prepared by Mr. Myers is accurate, there is a respect in which it is incomplete?

A That's correct.

Q So, in your judgment, the missing factor in this analysis resulted in a different ranking than would appear on the face of this document?

A Yes, of course.

Q Did you discuss your view of the analysis with Mr. Myers, by any chance?

A You mean recently?

Q No. At the time.

A Yes.

Q Did he agree with you that his analysis failed to account for this additional factor?

A Yes.

Q Did he --

A As a matter of fact, his notes are reflected in there.

Q Did he agree with you that after

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considering this additional factor, the RHL proposal would be less expensive for the people of Arkansas?

A Yes.

MR. O'CALLAGHAN: Was the 13-month deferral of payments that Mr. Portnoy has just referred to as like the missing fact from your analysis, was that the aspect of your proposal that was objected to by Mr. Hertenstein?

THE WITNESS: Correct.

MR. O'CALLAGHAN: Thanks.

BY MR. PORTNOY:

Q I would like to show you a document that has been identified as the May 10, 1985 minutes from the commission meeting.

A Yes.

Q I draw your attention to the second page, which is Bates stamped DKSN 027190 and in particular to the third paragraph from the bottom which states that you moved that the RHL consortium be approved to handle the financing for the communications system. Does that comport with your recollection, sir?

A Yes.

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Q It was your motion to approve RHL?
A Yes.
Q Did anybody in any way try to influence you to make that motion?
A No, other than sales puffing by the various underwriters, of course.
Q So, this was completely a function of what you believed to be the proper discharge of your responsibilities as the police commissioner?
A Yes.
Q Without any improper influence of any kind?
A Correct.
Q The paragraph prior to the one I just showed you states that some of the applicants for the underwriting contract sought to revise their proposal as they felt they had misunderstood the nature of the proposal in some fashion or the nature of the RFP in some fashion. That again comports with your recollection?
A Yes.
Q You testified that there was nothing particularly special about the refusal or the board's

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decision not to reopen the proposal?
A No.
Q You viewed this as essentially sour grapes from the losing bidders?
A Yes.
Q Do you know if there were any legal limitations on your ability to reopen the bidding?
A I would assume that the staff and state purchasing department personnel would advise us if we had any requirements or restrictions pursuant to that.
Q Did they advise you either way? Did they tell you that you had the option to reopen it or did not have the option to reopen it?
A No, they didn't say anything.
Q They left it for the commission to decide for itself?
A Yes.
Q They did not try to influence your vote on that matter in any way?
A No.
Q I believe you testified earlier that

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Mr. Erxleben was involved in the review of the proposals. Could you describe his role for us.
A I believe his title was director of state purchasing, which means that his agency was charged with making sure that all laws applicable to purchasing items for the state of Arkansas are adhered to.
Q And specifically with respect to the police radio underwriting contract, did he advise the commission as to procedures for putting out a contract for bid?
A Yes.
Q Did he express views as to which contract or proposal ought to be accepted?
A No.
Q He did not?
A No.
Q He did not participate in any way in the substance of the decisionmaking?
A Correct.
Q That was left entirely to the commission?
A Correct.

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Q You also indicated Mr. Mosley assisted in compiling information and reviewing proposals?
A Correct.
Q Mr. Mosley was the fiscal director or the chief fiscal officer for the police department?
A Correct.
Q Did Mr. Mosley participate in the selection of the RHL consortium?
A No.
Q Did he participate in any way in the decision as to which underwriter to award the contract to?
A No.
Q Once again, that was left completely to the commission?
A Correct.
Q Did any staff member of any entity, state entity, participate in the process of deciding which underwriter would receive a contract?
A Only in information gathering, but not in the decisionmaking itself.
Q You indicated earlier that you were trying

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to find the best deal for the people of Arkansas.
A Correct.
Q If there had been other factors that you considered important in addition to price, did the commission have the flexibility to choose an underwriter that wouldn't have been the least expensive?
A I would have hoped -- yes, I think so.
Q So, it was within your discretion, you believe, to choose someone who wasn't the least expensive?
A Yes. I think ability to perform would have and could have played a big role.
MR. PORTNOY: That's all I have, sir. Thank you very much.

EXAMINATION

BY MR. O'CALLAGHAN:
Q I have a couple of quick follow-up questions. I will try to be short and sweet.
Has the State Police been involved in a bond underwriting since 1985, since the bond underwriting of the police radio network?

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A I don't know.
Q The reason I ask is I think you said before they hadn't been previously and then they did an offering for the radio.
A I don't know the answer to that. I don't think so, but I'm not sure.
Q Did anyone on the commission or in the police department have any experience with bond underwritings, issuing them -- bond offerings?
A I don't know the answer to that.
Q Mr. Portnoy outlined how you said that there was an acute need for a new police radio system. Do you know or have you ever learned that Lasater & Company was told by anyone in the Governor's office that the radio system would be funded by a bond offering and that that bond offering would be underwritten by Lasater & Company?
A I have no knowledge of anything like that.
MR. O'CALLAGHAN: If I have asked this question, Counsel, let me know. I want to make sure I have covered it. I'm not sure whether I did or not.

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MR. HARDIN: Redundancy is okay.
MR. O'CALLAGHAN: Mr. Portnoy might disagree with you.
BY MR. O'CALLAGHAN:
Q Between 1984 and 1985, did you have any personal communication with Governor Clinton?
A No.
Q Did you have any dealings with anyone by the name of Sam Bratton?
A No.
Q Do you know who he is?
A Yes.
Q How do you know who Sam Bratton is?
A He is a public figure in Arkansas. I believe he is currently on the Public Service Commission.
Q Were you aware that Mr. Bratton had meetings with different underwriters during 1984 and 1985 with regard to the State Police radio bond issuance?
A No.
Q You told me earlier that you were a member

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of the Capital Club; you may or may not have been through '84 and '85.
A Uh-huh.
Q I asked you if Mr. Drake was a member and you said you weren't certain; is that right?
A Correct.
Q Was Mr. Lasater a member of the Capital Club?
A I have no idea.
MR. HARDIN: Off the record.
(Discussion off the record.)
MR. O'CALLAGHAN: Why don't we describe it on the record.
MR. PORTNOY: It is up to you.
BY MR. O'CALLAGHAN:
Q Can you describe what the Capital Club is?
A The Capital Club is simply a place to have lunch and dinner. Dues are $25 a month, and they have several thousand members from throughout the state.
Q How often did you go there during 1984 and '85?

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A I don't recall.
Q Do you recall in 1985, in the spring of 1985 how often you went?
A No.
Q Did you go there for lunch?
A Yes.
Q Did you go there for dinner?
A Occasionally.
Q Did you ever see Mr. Drake at the Capital Club?
A No.
Q Did you ever see Mr. Lasater at the Capital Club?
A No.
Q Mr. Portnoy showed you a portion of the board minutes from May 10, 1985, where there was a discussion about a request for permission to revise proposals by the other underwriters who weren't chosen.
A Right.
Q Were any of the commission members in favor of granting the request of the underwriters to hand

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in revised proposals?
A I don't recall.
Q Was there any discussion whether it would be to the benefit of the state to let the firms revise their proposals in light of the fact of the representation that they had misunderstood the -- there was a misunderstanding of the Act?
A I don't recall. May I correct something on the record?
Q Absolutely.
A When a bond is issued at a premium, the effective rate is lowered. When a bond is issued at a discount, the effective rate is increased.
Q Thank you for that correction.
MR. O'CALLAGHAN: I have no further questions at this time.

EXAMINATION

BY MR. PORTNOY:

Q I have one last question for you, sir. You indicated earlier that it was your understanding that the bond issue had been successful; is that correct?
A Yes.

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Q The bonds were all issued in a timely manner?
A Yes.
Q The state received the funds it needed?
A Yes.
Q The communication system was purchased?
A Yes.
Q And installed?
A Yes.
Q The bonds haven't been defaulted on in any fashion, have they?
A No.
Q To your knowledge, has there been any problem whatsoever with the issuance and payment of the bonds?
A No.
Q Do you still consider the people of Arkansas got a good deal?
A Absolutely.
MR. PORTNOY: That's all I have. Thank you.
MR. O'CALLAGHAN: I have one more question

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to follow up on that.

EXAMINATION

BY MR. O'CALLAGHAN:

Q My question, was the bond underwriting profitable for the underwriters that participated?
A You would have to ask them. I don't know.
MR. O'CALLAGHAN: That's all the questions I have.
Would counsel like to ask any clarifying questions or the witness make any clarifying statements?
MR. HARDIN: No, other than the fact that I do understand if Mr. Mitchum is going to be called back in any manner where he is going to be asked questions regarding his deposition, that a reasonable time frame in advance of that, at a time which is reasonably in advance of that you will provide both Mr. Mitchum and me a copy of the transcript, which I do understand will be without exhibits that were introduced and provided for inspection today; is that correct?
MR. O'CALLAGHAN: That's correct.

MR. HARDIN: What do you consider a reasonable time in advance?

MR. PORTNOY: The committee's practice heretofore has been approximately four days in advance that you would receive a copy. But that is in addition to your prior review for errata purposes.

MR. HARDIN: Off the record.

(Discussion off the record.)

(Whereupon, at 4:20 p.m., the deposition was concluded.)

JOHNNY B. MITCHUM

CERTIFICATE OF NOTARY PUBLIC & REPORTER 158

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey

Notary Public in and for the
District of Columbia

My Commission Expires SEPTEMBER 14, 1996

DEPOSITION OF PATRICIA SOLIS
IN RE: S. RES. 120

FRIDAY, FEBRUARY 9, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of PATRICIA SOLIS, called for examination pursuant to notice of deposition, at 10:40 a.m. in Room 640–A of the Hart Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, ESQ.
Majority Associate Special Counsel
NEAL E. KRAVITZ, ESQ.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

TY COBB, ESQ.
Hogan & Hartson
555 Thirteenth Street, NW
Washington, DC 20004
On behalf of the Deponent.

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Patricia Solis

DEPOSITION NUMBER	IDENTIFIED
Solis Exhibit 1	42, 2872

PROCEEDINGS

MR. DINH: Ms. Solis, as you know, my name is Viet Dinh. I'm with the Majority staff of the Special Committee to investigate Whitewater Development Corporation.

This deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Senate Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

As you may know, the Special Committee has investigated and conducted hearings into a number of subjects. I will ask you to talk about knowledge you have to matters relevant to this continuing investigation, but I anticipate that the two main time periods that I will be asking you questions about is the period between July 20 and July 27, 1993 and the period in July and August of last year, 1995. I would ask you to focus on those.

Section 1(b)(1) of Resolution 120

authorizes investigation and public hearings into whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House deputy counsel Vince Foster following his death.

Section 1(b)(3)(A) of Resolution 120 authorizes investigation and public hearings into the operations, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiary affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association.

Section 1(b)(3)(C) of Resolution 120 authorizes investigation and public hearings into the policies, practices of the RTC and the federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association.

I anticipate that these subjects will be the focus of today's deposition.

This deposition is taken under oath and the stenographer will be preparing a record of questions

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and answers. I would advise you that this deposition is being taken in advance of public hearings which are being conducted right now. We have not made a final determination as to who will be called at such public hearings, but if you do, you will get a copy of your transcript four days in advance approximately --

MR. KRAVITZ: Viet, my understanding is Ms. Solis is on the schedule for next week. I think she ought to be informed of that rather than saying something else.

MR. DINH: I believe that one of my colleagues has called Mr. Cobb advising him of the preliminary schedule that she is on the tentative schedule for next week, and of course we don't make that determination until and when we finish the deposition, as you well know, Mr. Kravitz.

MR. COBB: Actually what he said is there was a possibility she would be called next week and that that decision would be made after the deposition.

MR. DINH: That's exactly consistent, I

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think, with what I have just said. Thank you very much, Mr. Cobb. And we will advise you as promptly as possible after the decision is made.

As I said, you will be provided a copy of your deposition four days in advance for the purpose of preparing for that, your testimony in the public hearings.

The transcript of this deposition will be remaining Committee confidential until the time when you are called at --

MR. KRAVITZ: Unless it appears in The Washington Post before then. Go ahead. I guess you didn't see this morning's Post, Viet.

MR. DINH: It will remain Committee confidential and you will be given an opportunity to make corrections to that transcript when the transcript is available. Our office will call you, Mr. Cobb, and arrange that for you; again, both of those reviews, that is for the review and not for release or any other purposes.

You may be represented by counsel and if counsel can make a representation on the record or an

appearance on the record.
MR. COBB: I'm Ty Cobb of Hogan & Hartson appearing on behalf of Ms. Solis.
MR. DINH: Pursuant to the procedures set forth in Resolution 120, objections as to the form of the questions shall be noted for the record. There are two grounds upon which counsel may instruct the witness not to answer. That is on privilege and scope, and we'll advise you that the Committee Chairman will ultimately rule on such objections.
Whereupon,
PATRICIA SOLIS
was called as a witness and, having first been duly sworn, was examined and testified as follows:
BY MR. DINH:
Q Can you state your name for the record, please.
A Patricia Solis.

Q Your home phone number.
MR. KRAVITZ: Viet, is that something that's necessary for the Committee's fact-finding investigation, to have people's home telephone numbers in these transcripts?
MR. DINH: Yes, I think so because part of our investigation is if it's relevant to get the home telephone records of these people.
MR. KRAVITZ: Well, you don't need her telephone number in the deposition record in order to get her home telephone records, if that becomes relevant.
BY MR. DINH:
Q Ms. Solis, you may provide me privately with your home telephone number. Let me ask you this. Can you write for me your home telephone number?
MR. COBB: I'll just supply it to you after the deposition.
MR. DINH: This will be great. Thank you very much, Mr. Cobb.

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BY MR. DINH:
Q Is that telephone number the same as it was in July 1993?
A Yes.
Q Is that address the same as it was in 1993 also?
A No.
Q Can you give me your address in July of 1993?
A 1320 21st Street, Northwest, Washington, 20036.
Q Thank you.
MR. DINH: Off the record.
(Discussion off the record.)
BY MR. DINH:
Q Back on the record.
Ms. Solis, from the notice of deposition, have you had any conversations besides your immediate family members and your counsel regarding the matters that you will be testifying today?
A No.
Q Without telling me what you were asked or

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what you said, can you tell me, have you been questioned by any other investigative agencies or personnel relating to the subject matters that you are about to testify?
A No.
Q Can you give me your educational background.
A I graduated from Northwestern University.
Q When was that?
A 1989.
Q Can you give me a brief history of your professional background.
A After college I worked for the city of Chicago for a year, then worked on Mayor Daley's re-election campaign, and after that I worked for the city treasurer of Chicago and then went to Little Rock to work on the Clinton-Gore campaign.
Q When did you join the Clinton-Gore campaign?
A November of 1991.
Q What was your position with the campaign in November of 1991?

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A Scheduler to Hillary Rodham Clinton.
Q Has that remained your position with the campaign through the end of the campaign?
A Through the end of the campaign and through the transition and then at the Administration.
Q And during the Administration also?
A Yes.
Q So I take it, what is your current position now?
A I'm a special assistant to the President and director of scheduling for the First Lady.
Q And you've been in that position since January of 1993, I take it?
A Yes.
Q Can you give me your office phone extension?
A I have two. There's a general number which is 202-456-7560, and then my direct line, which is 456-2468. And then, you know, there's another general number for First Lady scheduling, which is 456-5318.
Q And the 2468 extension, do you share that

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with anybody or is that your exclusive direct line?
A That's my exclusive direct line.
Q When did you first meet the President?
A It was early November 1991 at a fundraiser in Arkansas.
Q When you joined the campaign?
A When I joined the campaign.
Q Did you meet the First Lady at that time also or did you meet her earlier?
A Yes, I met her like the second day I joined -- or the third day I joined the campaign.
Q That would make sense since you were her scheduler.
A Right.
Q What are your duties as a scheduler for Mrs. Clinton?
MR. KRAVITZ: Do you mean now?
MR. DINH: Yes.
THE WITNESS: I schedule her public events, her domestic travel, her foreign travel, her meetings, her doctor's appointments. Basically, I schedule her life. And in that capacity I work with

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various departments of the White House to make sure things are vetted properly, Secret Service, that logistics go well.

BY MR. DINH:

Q Do you travel with the First Lady when she goes on these trips that you schedule?

A No, not often.

Q But you would handle the scheduling even for the trips?

A Yes. For foreign travel, I travel ahead of her to plan the trip, but on domestic travel, no, I don't.

Q But you would plan her activities and schedule for the days that she is on this trip also?

A Yes.

Q There's no, like, trip scheduler?

A No.

Q How is this schedule circulated? Do you circulate a copy to Ms. Williams?

A Yes.

Q Who else do you circulate a copy of the schedule to?

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A There are two versions of the schedule. One is a public schedule which goes to just about everybody, the press, the various departments in the White House -- well, the press and various departments in the White House, and then there's a private schedule and Maggie Williams, Mrs. Clinton, Capricia Marshall and I get a copy of that schedule.

Q And do you do these on a daily basis?

A Yes.

Q There's two sets of schedules every day that you print out?

A Right.

Q Now, let me direct your attention to the scheduling procedures when Mrs. Clinton is on a trip. Do you print out the two sets of schedules from your office then also?

A No, normally on a trip everything is public because it's a press day schedule, everything she does is open to the press normally, so there's no need to.

Q So you would plan it in advance and then would not have daily schedules for her? Would you

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have daily schedules for her?
A Yes.
Q You would have daily schedules?
A Yes. There are always daily schedules.
MR. KRAVITZ: I think her point was that when Mrs. Clinton is on a trip there's only a public schedule, no separate private schedule. Was I correct?
THE WITNESS: Yes.
BY MR. DINH:
Q Let me direct your attention now to the night of July 20, 1993, and if I can focus your attention on the events of that night, that is the night that Mr. Foster passed away. Do you remember where you were that night?
A Yes. I was at a going away party for a friend on Capitol Hill at a bar.
Q Did you stay at that party -- actually, when did you hear of Mr. Foster's death?
A I didn't hear about it until the morning after at work.
Q That would be July 21?

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A Yes.
Q So you were not in the White House at any time on July 20 -- I mean on the evening of July 20, 1993?
A No, not that I recall.
Q And you did not receive any phone calls or messages at home notifying you of Mr. Foster's death?
A No.
Q Did you carry a pager at that time?
A Yes.
Q Nobody paged you?
A Not to the best of my recollection, no.
Q Do you usually keep the door to your office closed at night?
A At night when I'm not there?
Q Yes.
A Oh, yes.
Q Is that locked?
A I have two doors to my office, one door opens up to the sort of scheduling-in-advance wing of the White House and that one is not locked, but the door that opens to the corridor of the OEOB is

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locked, so you have to get into the wing to get to my office.

MR. KRAVITZ: Viet, just so the record is clear, when you asked that question, were you referring specifically to the time period of July 1993 or just more generally? I'm not sure what the witness understood.

MR. DINH: That was a more general practice.

THE WITNESS: Well, that's what I do all the time.

BY MR. DINH:

Q And by "all the time," I take it that includes July 20, 1993?

A Sure.

Q You didn't recall being out of the ordinary as far as your normal procedure?

A No.

Q When you came in in the morning of July 21, 1993, did you have any messages on your desk or under your door regarding a change in the First Lady's schedule in light of Mr. Foster's death?

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A No.

Q Did somebody subsequently communicate to you the need or express a concern about the need to change the First Lady's schedule in light of Mr. Foster's death?

A Yes. Mrs. Clinton was in Arkansas at the time, and she had a public event scheduled at the Arkansas Children's Hospital. And Maggie Williams and I discussed, you know, the possibility of canceling that just because Mrs. Clinton was grieving, and she wouldn't be up for it, but then Maggie told me that she wanted to do it and that we were going to do it.

Q Actually, let's back up. When you came in on the 21st, who told you Mr. Foster had passed away?

A Well, actually I was going through the magnetometer that you have to go through to get into the OEOB, and a colleague said, did you hear about Vince, isn't it awful? And I said what, and he said, he killed himself. And I didn't believe it at first. I told him that that was a sick joke. Then he told me it's true and then I was just shocked,

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went to my office, closed the door, cried a little bit and then --

Q Who was this colleague?

A He worked in research. His name escapes me right now. He's right now at Yale. He left. He was like an intern.

Q That's quite all right.

A Paul Meyer.

MR. DINH: Off the record.

(Discussion off the record.)

BY MR. DINH:

Q Back on the record.

And when approximately during the day of the 21st did you have this conversation with Ms. Williams?

A I don't remember. I'm thinking sometime in the morning.

Q Sometime in the morning, okay. Now, Mrs. Clinton's event at the children's hospital, was that on the 21st or was that on the 22nd, do you recall?

A I don't recall which day specifically.

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Q But it's one of those days, one of those days that she's in Little Rock?

A Right.

Q Were you in the White House on July 22, which is the next day, which would be Thursday, July 22?

A Yes.

Q Actually incidentally, let's back up a little bit. Where is your office? You said it was in the Old Executive Office Building?

A Yes, it's room 189 of the Old Executive Office Building, which is --

Q Is that in the same suite of offices as Ms. Williams's office is?

A No, it's kitty corner.

Q It's kitty corner, right next door?

A Across, on the corner.

Q In close proximity?

A Yes.

Q Directing your attention now to July 22, 1993, when did you get in the office approximately?

A I don't remember. I usually get in between

8:00 and 9:00.
Q Do you talk to Ms. Williams on a regular basis, on a daily basis?
A Yes.
Q Did you talk -- did you have any conversations with Ms. Williams that day that you can specifically remember?
A Which day?
Q July 22, 1993.
A Not that I can specifically remember, no.
Q Do you recall any discussions with Ms. Williams regarding the files in Mr. Foster's office?
A No.
Q Do you recall any discussions with Ms. Williams regarding Mr. Foster's office?
MR. KRAVITZ: Do you mean that day or at any time?
MR. DINH: That day.
THE WITNESS: No.
BY MR. DINH:
Q Do you recall having any conversation with

anybody in the White House regarding the files in Mr. Foster's office on that day?
A No.
Q Do you recall overhearing Ms. Williams having any discussions with anybody on that day regarding the files in Mr. Foster's office?
A No.
Q Did you receive a call from Susan Thomases that day, July 22, 1993?
A Not that I remember.
Q Do you recall discussing files in Mr. Foster's office with Ms. Susan Thomases --
A No.
Q -- on that day?
A No.
Q Ever?
A Ever, no.
Q Do you talk to Ms. Thomases often?
A Yes.
Q Is this part of your scheduling duties that you would talk to Ms. Thomases, or is it other reasons?

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A Well, Susan and I are friends. Susan Thomases and I are friends. She was my boss in the campaign. We talk regularly.
Q And I take it that those conversations were happening in 1993?
A Yes.
Q With Ms. Thomases?
A Yes.
Q Do they continue to this day?
A Yes.
MR. COBB: "Those conversations" being content and not specific?
MR. DINH: Content, exactly.
BY MR. DINH:
Q Did you see Ms. Thomases at the White House that day, on July 22, 1993?
A Not that I remember, no.
Q Do you work -- at the time in July of 1993, did your regular duties in the White House bring you into contact with Mr. Nussbaum, Bernard Nussbaum?
A No.
Q Let me ask you if you specifically recall

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seeing Mr. Nussbaum on July 22, 1993.
A No.
Q Did you have any conversations with Mrs. Clinton on July 22, 1993?
A Not that I recall, no.
Q Do you recall when your first conversation with Mrs. Clinton was after Mr. Foster's death, on July 20, 1993?
A No, I don't specifically remember.
Q It doesn't stand out in your mind?
A No.
Q Did you go to the funeral of Mr. Foster in Little Rock?
A No.
Q You stayed here in Washington?
A Yes.
Q Did you come into the office on Saturday of that week?
A I don't remember.
Q Saturday of that week would be July 24, 1993. You don't recall?
A I don't remember.

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Q Do you recall talking with Ms. Thomases over that weekend; that is, either on Saturday the 24th or on Sunday the 25th, 1993?
A No, I don't.
Q Would Ms. Thomases call you in order to schedule something with Mrs. Clinton, besides your normal, friendly conversations?
A When she wanted to see her?
Q Yes.
A Sure.
Q She would call you and contact you for that purpose also?
A Yes.
Q So your contacts with Ms. Thomases could be either professional in the sense of scheduling a time with Mrs. Clinton or personal in the sense of you two being friends and just wanting to chat?
A Yes.
Q Specifically directing your attention to July 24, that is the Saturday after Mr. Foster's death in 1993, do you recall receiving a phone call from Ms. Thomases, who was then in her house in

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Newport, Rhode Island?
A No, I don't recall.
Q Do you recall receiving a message from Ms. Thomases on that day --
A No.
Q -- on your answering machine or from some other source?
A No.
Q Do you recall talking with Ms. Thomases over that weekend?
A No, I don't.
Q Do you recall when the first time was that you talked to Ms. Thomases after Mr. Foster's death?
A No, not specifically.
Q Let me direct your attention to even a smaller time frame. Do you recall at approximately 7:00 on Saturday evening, which is a rather significant time -- I know it is in my personal schedule -- do you recall at that time receiving a phone call from Ms. Thomases?
A No, I don't.
Q You don't recall getting a message from her

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at approximately that time, from Ms. Thomases either?
A No, I don't.
MR. KRAVITZ: Is there something you want to show her to try to refresh your memory? You seem to be looking at a document. Is the answer no?
MR. DINH: I think you should worry less about what I'm looking at.
MR. KRAVITZ: I'm worried about trying to have an accurate factual record for this Committee's investigation. It seems to me instead of playing "gotcha," you ought to show her a document that -- if you have something that might refresh her memory. Is the answer to that no, Viet, you're not going to show her a document that you appear to be looking at?
The record will reflect and should reflect that when you were asking Ms. Solis those questions, you were looking at a document, which from my vantage point appeared to be some sort of telephone record, and I take it your decision is that you're not going to show whatever that was to Ms. Solis to see if it refreshes your memory, so I suppose that's your

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prerogative, but I think it's pretty unprofessional under the circumstances.
MR. DINH: Thank you very much for that comment, Mr. Kravitz. It is my professional judgment on how to conduct this deposition, what documents to use. If you would like to show Ms. Solis any documents, please feel free to do so on your own time and --
MR. KRAVITZ: Why don't you share with me what that document was.
MR. DINH: Likewise. I mean it is my prerogative how to conduct this deposition. If you haven't done your homework, please, you know, don't rely on me to do your homework for you.
MR. COBB: As somebody who has done his own homework, I think the record is that while she wasn't specifically asked is there any possibility you received a phone call, is there any possibility you didn't, you asked her specifically whether she had any personal independent recollection of events 2-1/2 years ago on a specific day at specific times and she doesn't.

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MR. DINH: Exactly. That's exactly what I am trying to probe is your specific recollection. I think the records can speak for themselves and I think that my questions have adequately focused your attention to that particular time period.

And let me assure you, I'm not trying to play "gotcha." If I'm trying to play gotcha, you will know. I take it your counsel, who is one of the most able counsel in this town, will also know.

MR. COBB: I am going to order a copy of this transcript, though.

(Laughter.)

BY MR. DINH:

Q As part of your duties as the First Lady's scheduler, do you sometimes make phone calls on her behalf?

A No. To schedule a meeting for her or an event, but not for her, no.

Q So the procedure would be the First Lady would call you in and say please schedule a meeting with so-and-so or something like that, if she wants to see somebody?

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A The First Lady and I meet on a regular basis and we discuss the schedule there, and if she wants me to schedule something, I'll do it.

Q When you say regular basis, is that daily?

A We are scheduled to meet, she, Maggie Williams and I, on a daily basis. Sometimes, you know, she is running late or it's not convenient, so we'll take care of it with a phone call or we just don't meet because there's nothing we need to discuss.

MR. DINH: Off the record.

(Discussion off the record.)

BY MR. DINH:

Q Back on the record.

So these scheduling meetings with Ms. Williams, is there anybody else at these meetings usually?

A No.

Q It's just you, Ms. Williams and the First Lady?

A Yes.

Q Do they usually take place in the morning?

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A In the beginning of the Administration they took place in the morning, at the beginning of the day. At some point, I don't remember when, we switched them to the afternoon.
Q To the afternoon. At some point. Can you give me a time frame, like end of 1994, beginning of 1995, middle of 1995?
A Probably sometime in 1994, middle of 1994.
Q So it's safe to assume that in 1993, you had your meetings in the morning?
A Yes.
Q And by 1995 you had your meetings in the evening?
A In the afternoon.
Q In the afternoon. What time in the afternoon?
A They're scheduled for 3:00, but again, they're at the convenience of the First Lady.
Q Right. Sometimes she runs late in her schedule, which you schedule?
A Uh-huh.
Q And it is during these meetings that she

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would tell you a list of persons or list of events or meetings that she would like to be scheduled on her calendar?
A It's a meeting where I can update on her schedule and what she's doing and she can ask me any questions or direct me to do any other meetings.
Q Besides this formal meeting on a daily basis, as regular as the First Lady's schedule permits, besides this formal meeting, are there occasions that Mrs. Clinton would call you up personally and say "oh, I want to meet with this person also"?
A Yes.
Q Does that happen on a regular basis?
A Yes.
Q Once a week, twice a week?
A Probably once or twice a week.
Q But you try to keep everything in the formal meeting so that -- to make your job a little easier and to make her schedule more regular?
A Right, but you know, I've worked for her for a long time, so she feels very comfortable just

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picking up the phone and calling me if she needs something.

Q Sometimes things come up and she needs her schedule rearranged to insert another person or something like that?

A Yes.

Q Let me direct your attention -- actually, let me go back again to near the period between July 24 and 25. I know you've testified that you don't recall speaking specifically with Ms. Thomases, but I was just wanting to ask a more direct question, whether you recall her calling you at any time during that -- after Mr. Foster's death, that week from July 20 through the 25th, to ask for a meeting with Mrs. Clinton when she gets back from Little Rock.

A No, I don't.

MR. COBB: Is that the sketch of somebody's cranium or --

MR. DINH: Everything looks like somebody's cranium upside down.

BY MR. DINH:

Q Okay. Let me move now to July 26, which is

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the Monday after Mr. Foster's death. Do you recall -- I take it you were in the White House that day, Monday, regularly?

A I'm sure.

Q Do you recall any conversations that you may have had that day regarding a note in Mr. Foster's handwriting?

A No.

Q You don't, okay. Do you recall overhearing any such conversations?

A No.

Q Did you see Mrs. Clinton that day, if you can remember?

A I don't remember.

Q Do you recall having any conversations with Ms. Thomases that day?

A No, I don't.

Q Either in person or over the telephone?

A No, I don't.

Q When did you first hear that a note in Mr. -- apparently in Mr. Foster's handwriting had been discovered in the White House?

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A I don't remember. I think I might have heard it on the news.
Q On the news. But you don't specifically recall that event, actually when you found that out?
A No.
Q Unlike your reaction of Mr. Meyer telling you of Mr. Foster's death?
A Right.
Q That's certainly understandable. One is much more dramatic than the other.
Let me turn your attention now to July 27, 1993, which is the Tuesday of that week, and let me show you an exhibit marked ST 126, I believe. The copy is kind of bad. I'll ask you to study that for a moment.
(Witness reviewed the document.)
Let me represent to you that this has been produced to our Committee as a page from Ms. Susan Thomases message pad for July 27, 1993, and that is reflected on the upper left corner with the date as July 27. Can you read the message line for me that is there on that?

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A It says "Patti Solis, HRC wants to see you today," and then there's a check mark.
MR. COBB: How come that one doesn't --
MR. DINH: Off the record.
(Discussion off the record.)
BY MR. DINH:
Q Back on the record.
Do you recall placing this call to Ms. Thomases' office?
A No, I don't.
Q On that day, you don't. Do you recall receiving a return phone call from Ms. Thomases or her assistant?
A No, I don't.
Q Let me represent to you further that we've learned that the check mark is an internal device in Ms. Thomases office to denote that the call was returned. I would just like for you to take a moment and focus your attention again to this particular day, that is, it is July 27, which is approximately -- exactly one week after Mr. Foster's death, on a Tuesday, and ask you again to see whether

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you recall scheduling a meeting for Ms. Thomases and Mrs. Clinton on that day.
A I don't recall.
Q Do you personally retain old copies of the First Lady's schedule and calendar?
A Yes, I keep a record of her schedule.
Q And to what date do you have that record back to?
A I have her schedule from January 20, 1993 until the present day.
Q Until the present day. And that includes both the private schedule and the public schedule?
A Yes.
Q For each day. Now, exactly -- when you said "records," do you keep just the copies of the page that went out to Ms. Williams with respect to the finalized private schedule, the finalized public schedule, or do you also keep other notes that you made in making that schedule?
A No, I just keep the finalized copy of the schedule.
Q The finalized copies. And your notes, I

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take it -- do you keep your notes also?
A No. Once the day is over, I toss them.
Q That is certainly understandable. But you do keep the final private schedule and the final public schedule for every day back to January 20, 1993?
A Yes.
Q Again, just focusing your attention on that particular day, that is Tuesday, July 27, 1993, do you recall seeing Ms. Thomases in the White House that day?
A No, I don't.
Q Do you know who Mr. Robert Barnett is?
A Yes, I do.
Q Do you recall seeing him on July 27, 1993 in the White House?
A No, I don't.
MR. COBB: I would like to interject here just for clarification, and I think it's well understood, but I just want the record to be clear. What we're talking about is her specific independent recollection of these events, not that there's a

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possibility that they happened or the people were there.

MR. DINH: Right, right, certainly.

BY MR. DINH:

Q Let me represent to you that we have records suggesting that Mr. Barnett and Ms. Thomases were there in the White House at approximately the same time, around 3:00 on that day. Does that refresh your recollection at all of whether you saw them there that day?

A No.

Q Saw them together, maybe entering together or leaving together, does that refresh your recollection?

A No.

Q So you don't recall seeing them?

A No, I don't.

Q You could have but you don't recall?

A I don't remember seeing them.

Q Do you know who Diane Blair is?

A Yes.

Q Do you recall seeing Ms. Blair in the White

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House during that week; that is, from July 20 through the 27th, 1993?

A No, I don't.

Q I know I asked you this question with respect to July 22, 1993, but let me ask you more generally for the entire week from July 20 through July 27, 1993, that is the one-week period between Tuesday and Tuesday, and ask whether you recall having any discussions about files in Mr. Foster's office.

A No, I don't.

Q Did you have any discussions regarding a search or inventory of Mr. Foster's office?

A No, I didn't.

Q Do you recall overhearing anybody in the White House conducting any conversations regarding, concerning the files in Mr. Foster's office?

A No.

Q After you learned about the discovery of the note apparently in Mr. Foster's handwriting, did you have any discussions about it with anyone in the White House?

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A No.
Q Let me direct your attention now to the period of July and August of last year, 1995.
MR. COBB: Are we shifting into a new area?
MR. DINH: Yes.
MR. COBB: Can we take a short break?
MR. DINH: Sure.
(Recess.)
BY MR. DINH:
Q Let me direct your attention now to the period of July and August of 1995, which is last year. Specifically I would like to concentrate on the time period before Mrs. Clinton went on vacation in Wyoming, I believe, in that summer. I believe she went on vacation starting August 15, so let me just direct your attention to the period July and August of 1995, July to August 15, 1995.
Have you ever been to the third floor of the White House residence?
A Yes.
MR. DINH: Let me show you a sketch and ask

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that it be labeled Solis Exhibit 1.
(Solis Exhibit 1 identified.)
BY MR. DINH:
Q And let me direct your attention to the top left-hand corner of that diagram -- actually, top right-hand corner of that diagram. I apologize. I'm a little bit dyslexic. And just to orient you, the top is south. The top is south, obviously with the portico there reflected.
Let me represent to you that this is an old plan of the third floor of the White House. Does this approximately represent your recollection of what the third floor of the White House residence appears to be?
A I'm so bad with diagrams, but I suppose so, yes.
MR. KRAVITZ: Viet, can you tell us what you know -- what do you mean by "old"? I mean do you have any information that this has been renovated and changed since this was drawn?
BY MR. DINH:
Q Based on deposition testimony that I

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believe Mr. Kravitz attended or should have read, that there has been some alterations done to this.

Let me tell you that by "old," I mean like the Truman administration. They are -- as you understand, these plans are fairly sensitive so we only have historical plans.

Let me direct your attention again to the area of the plan that is on the top right-hand corner, and if I can direct your attention to the room labeled 323, and then moving right, the suite of rooms labeled 320, 321 and 322, okay. And then --

MR. DINH: Off the record.

(Discussion off the record.)

BY MR. DINH:

Q Back on the record.

And then moving around the corner from that suite of rooms, directing your attention to 319A, which is that, and let me represent to you that 323 is an office that I understand to be was renovated for Ms. Huber's use and in 1995 was used by the First Lady with respect to some work regarding her book. The rooms that are labeled and the suite of rooms

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that are 320, 321 and 322 in this corner right there (indicating) in the upper right-hand corner are now one room, and that is the residence exercise room.

Have you ever seen the residence exercise room?

A No.

Q Okay, good. That saves us a lot of time.

A Good.

Q Let me direct your attention now to room 319A, which is just right below the exercise room, and represent to you that that is what we understand to be the book room, what is commonly called the book room. Do you know -- have you ever been to what is commonly called the book room?

A Yes.

Q On what occasion did you go to the book room?

A I don't remember quite what month, it could have been September or October, but I was waiting to meet with Mrs. Clinton in this room, which I call the computer room.

Q The computer room, okay.

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MR. KRAVITZ: Which room is that?
MR. COBB: This room, pointing to 323 on this chart, although each one of these rooms has multiple numbers.
BY MR. DINH:
Q Right. Let me just explain briefly. The other numbers, the other smaller numbers, all have arrows leading to them, and those reflect door numbers.
MR. COBB: And my point is not to contest the diagram but that obviously Ms. Solis, notwithstanding intensive mechanical drawing training, I don't think spends much of her time with diagrams of this type, so the -- I think when we're talking about it, I think everybody understands what you mean by room 323 here, but that there are multiple numbers. It might be useful --
BY MR. DINH:
Q Let me take a blue highlighter and mark on Solis Exhibit 1 what I would have been referring to as the room numbers.
MR. COBB: Just so I understand, there's

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the possibility that, and correct me if I'm wrong, but there is the possibility from what you've described or what you've represented that the entrances, exits, closets and other things that appear on this Truman administration diagram may not precisely match what it is today, but we're talking about general locations?
MR. DINH: Where they differ from today and where they are relevant I will point that out to you specifically.
MR. COBB: All right. Thanks.
BY MR. DINH:
Q When was this, sometime in October or November of last year?
A September or October.
Q Was that the first time you went to the book room?
A No, and I don't have a specific recollection as to the date, but in the beginning of the Administration, we sort of got a tour of the House, and I'm sure I went up there at that point.
Q By "the House," you mean the residence?

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A The residence.
Q Other than these two occasions, have you ever been to the book room?
A Those are the only two vivid recollections I have of being in the book room.
Q And you said this was in September and October of 1995 that you went up there and waited in the book room, so this would have been after Mrs. Clinton returned from her vacation?
A Yes.
Q You're certain of that?
A Yes.
Q Were other people in the book room in September or October of 1995 that you recall?
A Yeah, the 319A that you're calling the book room was sort of used as a workroom for the book that Mrs. Clinton was writing.
Q For the assistants who were helping her on the book -- did Mrs. Clinton use the book room for that purpose also?
A She was never there when I was there, so there were -- during the period of time that I was

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there, there were a couple of maids that went in there, Capricia Marshall was there, and I was just waiting for Mrs. Clinton to arrive for our meeting, and then we were going to go into the computer room, or room 323.
Q Did you recall seeing a table in the book room at that time? Actually, how long were you in the book room during this period?
A Not long. A few minutes.
Q Do you recall seeing any tables in the book room?
A My recollection of the book room at that time was a couple of tables, some laptops, a printer. It was a workroom, you know, paper everywhere.
Q So there were a number of computers set up in that room?
A A couple of laptops.
Q Because by that time it was used as a working space for the book; correct?
A Right.
Q So there were several tables around or was

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there one large table with a lot of laptops on it?
A I don't remember if it was one large table with a laptop in this corner and a laptop on that corner or two separate tables. I don't remember.
Q Does your work for Mrs. Clinton take you to the White House residence often?
A Yes.
Q And when I say "often," I know what I mean. What do you mean by "often"? Would it be once a day?
A Well, again, we're scheduled to meet every day and at the convenience of Mrs. Clinton, and often that convenience is in the residence.
Q Where are these meetings generally held?
A Most of my meetings with Mrs. Clinton in the residence are on the second floor, usually in the west sitting hall.
Q I mean like the scheduling meetings in general, when they're not held in the residence at her convenience, where are they usually held, or is the residence the usual place where you hold them?
A Again, when I say at her convenience, if

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she's in the OEOB doing a meeting or videos or whatever it is she does there, she'll come to Maggie Williams's office in the OEOB and we'll do it there, or if she's in her West Wing office, we'll do it there. Wherever she is is where we'll do it.
Q Right, right. Other than to attend meetings with Mrs. Clinton regarding the scheduling, that is, these daily meetings that you were telling me about, are there other occasions or reasons that would bring you into the White House residence?
A No.
Q And you said that your meetings with Mrs. Clinton when they take place in the residence will take place on the second floor?
A Yes.
Q Where on the second floor?
A The west sitting, sometimes -- west sitting hall, sometimes. Sometimes in the dining room, sometimes in the kitchen.
Q And you say that -- this is usually in the afternoon?
A Yes.

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Q At around 3:00, give or take, depending on the First Lady's schedule?
A Right.
MR. COBB: I think for the record, Viet, what she said was that is the current practice, previously it was a morning meeting.
MR. DINH: Great. Thank you very much.
BY MR. DINH:
Q As I recall, this happened sometime in 1994; correct?
A Yes.
Q So in 1995 certainly it was in the afternoon?
A Yes.
Q Or generally in the afternoon, generally give and take around 3:00 in the afternoon?
A It was at her convenience.
Q How long would these meetings generally last?
A Well, they're scheduled for 15 minutes, but again, depending on what we had to talk about, they would run shorter or longer.

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Q And these meetings are, as you testified earlier, with Maggie Williams?
A Yes.
Q And you said that generally it's just with you and Maggie Williams. Does it ever include other people?
A There's a weekly scheduling meeting which includes the senior members of her staff, but usually the daily scheduling meetings are just Maggie Williams, myself and Mrs. Clinton.
Q When are the weekly scheduling meetings scheduled for?
A I try to do them on Fridays but again, at the convenience of Mrs. Clinton.
Q And what other members of her staff are included in this weekly scheduling meeting?
A Her social secretary.
Q Who is?
A Ann Stock. Her Deputy Chief of Staff, Melanne, M-e-l-a-n-n-e, Revere, Maggie Williams, myself, her press secretary, Lisa Caputo, and her special assistant, Capricia Marshall.

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Q Do other members of her staff occasionally join you in this weekly scheduling meeting?
A Not really.
MR. COBB: You mean has anybody ever been there or is it a custom that somebody participates?
BY MR. DINH:
Q Custom. I said occasionally. I said -- not usually is your answer with respect to that?
A It all depends on what the topic of discussion is. For instance, if we're talking about a major foreign trip, sometimes we'll add in a trip director or someone from the NSC, just to sort of brief, but usually not.
Q So usually just these seven people?
A I'm trying to make sure I didn't forget anybody.
Q You've stated the social secretary, the Deputy Chief of Staff, the Chief of Staff to the First Lady, press secretary Lisa Caputo and special assistant Capricia Marshall and yourself, of course.
A That's right.
Q So it's not usual but sometimes it could

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include other people?
A Yes.
Q When you enter the residence on these occasions, which way do you usually enter?
A I take the elevator, go through -- walk through the colonnade and go through the basement, or the ground floor of the residence and get on the elevator and go up.
Q You enter the elevator on the ground floor there?
A Uh-huh.
Q What is called the President's elevator or do you know if that is the common --
A I just call it the elevator.
Q It's an elevator that goes directly from the ground floor to the second floor?
A Yes.
Q Does it have a button for the third floor also?
A Yes.
Q Is there a Secret Service officer outside that elevator?

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A Yes.
Q Does he usually know who you are or does he -- do you usually wait, stop at that Secret Service post?
A You know, I've been there so long usually I just go right up, but when there's a new officer, new UD officer, uniformed division, he asks me my name.
Q And then do you recall if he makes a notation on a log of some sort after he does so?
A I don't know.
Q But after he asks you your name, does he check a list to see whether you have access to the residence?
A I don't know. He asks me my name, I say my name, I say I'm going to go see Mrs. Clinton and then he says okay.
Q Other than those occasions when a new uniformed division officer asks you your name, have you ever been challenged, and by "challenged," I mean has anybody else stopped you while you're in the residence, not at this gate, while you're in the residence, and asked you your name or your -- for

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your ID or something like that?
A You mean when I'm on the second floor?
Q Yes, when you're walking from the elevator on the second floor going to your meetings.
A No.
Q Directing your attention now to the date July 20, 1995, this is last summer, do you recall going up to the residence that day?
A No.
Q Incidentally, do you ever meet -- at the daily scheduling meeting, do you ever meet without Ms. Williams?
A Yes, sometimes.
Q Sometimes? And when would those occasions be? What would be the reason for that?
A One reason might be if Maggie had another meeting that she couldn't get out of, one reason might be Maggie is sick or another reason might be -- you know, it's pretty much a very simple schedule, you know, personal stuff, and I can just do it without her.
Q Does this happen often?

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A I'm having trouble with the "often" --
Q Right --
A -- and "occasionally."
Q Can you tell me how often this happens? Once a month, twice a month, once a week?
A Maybe once every couple of weeks.
Q Once every couple of weeks. Let me show you now a record labeled S 020056 and let me represent to you that they are the Secret Service logs maintained at the station by the elevator there that records entries and exits of personnel into the White House residence. I would like to direct your attention to the place where -- the second place where I've highlighted.
MR. COBB: Second place being further down the page?
MR. DINH: Right.
BY MR. DINH:
Q That says "Patty Solis, up," that means entries into the residence, at 1421, that would be military time, 2:21, and down at 1455, and that would be 2:55.

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Does this refresh your recollection as to whether you went up to the residence that day, that day being 7-20-95, and you'll see up at the top right-hand corner, that would be a Thursday?
A No, but they spelled my name wrong.
Q They spelled it with a Y instead of an I?
A Yes.
Q That does not refresh your recollection as to that particular entry and exit?
A No.
Q Looking at the time recorded on the log, can you -- is that consistent with a scheduling meeting, a daily scheduling meeting?
A Yes.
Q Let me ask it another way. Would you have any other reason to go into the White House residence?
A No. I might have reason to go to the usher's office to drop something off, but --
Q What would you drop off?
A Anything for Mrs. Clinton but not to the residence.

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Q Not to the residence, okay. The usher's office is on what floor?
A It's on the first level.
Q But you wouldn't -- would you go --
A On the state floor.
Q Would you go through the elevator?
A No, I would just take the stairs.
Q Up to the state floor?
A Yes.
Q But when you entered the residence, it would be to meet with Mrs. Clinton?
A Yes.
Q And do you meet with Mrs. Clinton for any other reason other than scheduling?
A No.
Q Let me turn your attention to about -- a couple of weeks later to August 9, 1995. That would be about three weeks later on a Wednesday, August 9. Do you recall going up to the residence that day?
A Well, I don't specifically recall it but I do remember, I was out of the country from July 28 through August 8 on a preadvance for the Beijing

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trip.
Q Can you give me those dates again?
A July 28 through August 8, so I'm assuming, I'm sure -- it is normal for me to meet with Mrs. Clinton the day after I return from such a trip to discuss it with her.
Q Did Ms. Williams go on the trip, this trip with you?
A Yes, she did.
Q Who else went on this preadvance trip with you?
A Neel Lattimore, deputy press secretary.
Q Deputy press secretary being Neel Lattimore?
A Right.
Q Not a separate person?
A Right. Sarah Grote, my deputy, Kelly Craighead, Mrs. Clinton's trip director, Secret Service agents, White House communications agents, and Ralph Frank from the State Department, and David Morehouse from the advance office, the White House advance office.

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Q Do you recall when Mrs. Clinton went to China?
A September 4, I believe.
Q So you returned on the 8th?
A Yes.
Q That it would be a Tuesday?
A I don't remember what day of the week.
Q So you said you would have reason to meet with Mrs. Clinton the next day in order to go over the trip plans?
A Right. Typically when I return from a preadvance like this, I do meet with her the next day.
Q Let me show you now a similar record that you studied earlier. This one is labeled S 020027, and that's for Wednesday, August 9, 1995, and ask you to study the entry that I have highlighted there.
(Witness reviewed the document.)
Does this -- and let me just read it for the record. That reflects Patti Solis entering at 1210 and exiting at 1340, which is 1:40 in laymen's time. Does that refresh your memory as to whether

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this was the time you entered the residence in order to discuss with Mrs. Clinton your trip to China and her plans for her trip?
A I don't specifically remember the time, but I know I did speak with her about the trip upon our return, or the next day.
Q Do you recall who else was at this meeting? Did everybody who went to China come up for the meeting?
A Yes, actually.
MR. COBB: Everybody or --
BY MR. DINH:
Q Exactly. Let me ask you the questions first. Do you recall who else was at this meeting?
A Yes. Do you want me to tell you?
Q Yes, please.
A Maggie Williams, myself, Neel Lattimore, Kelly Craighead and Sarah Grote and Mrs. Clinton.
Q Great. Now, just studying the entry right above the entry I have highlighted for you, that says Maggie Williams entering at 1210, leaving at 1354 and the entry below that it says Neel Lattimore, 1210

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entry, leaving 1340, which is about the same time that you left. Does that refresh your recollection, did you enter with Maggie Williams and Neel Lattimore together when you went up to the residence on this particular meeting?

A I don't remember.

Q Do you recall how long approximately this meeting lasted?

A It lasted longer than usual, because --

Q There was a lot more to talk about?

A There was a lot more to talk about. 45 minutes maybe, an hour. I don't remember.

Q You don't recall, okay. Could it have been an hour and a half?

A It could have been. I don't remember.

Q Do you recall any discussions at this meeting about any subject other than China, other than her trip to China?

A Well, we also went to Cambodia, Thailand and Mongolia, so we talked about that, but nothing else.

Q Other than her trip to Asia?

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A No.

Q I take it you did not talk about her weekly or daily schedule at this meeting, this was just strictly for the purpose of her trip schedule?

A I don't remember but since I had been gone for so long and jet-lagged I'm sure we didn't because I didn't know what was going on.

Q Who takes over your duties as scheduler when you're on such an extended trip?

A It depends on -- usually on a trip like this, I take one of my assistants with me. On this one I took Sarah Grote, so I don't remember but I'm sure -- it was likely that probably Julie Hopper.

Q Who is another assistant of yours?

A She is no longer. She quit about -- in August, in August of '95.

Q In August of 1995. At the end of August of 1995 or at the beginning?

A At the end.

Q So she would have been at the White House at this time, that is --

A Yes.

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Q August 9, 1995?
A Yes.
MR. COBB: Are we done with this one, Exhibit 1?
MR. DINH: We'll just leave that there for a bit.
BY MR. DINH:
Q Let me direct your attention now to the very next day, which is the Thursday after the Wednesday that you came back from your trip, and let me ask you whether you recall entering the residence then, perhaps for a scheduling meeting of some sort.
A I don't --
MR. KRAVITZ: We're talking about August 10?
BY MR. DINH:
Q August 10, 1995, yes.
A I don't specifically remember.
Q Let me direct your attention to S 020026, and again that's what they call an F1 movement log, which is the formal technical name for these logs at the ground floor maintained by the Secret Service.

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Let me ask you to study the entry that I have highlighted.
(Witness reviewed the document.)
That reads this time with an I, Patti Solis, entry at 1438, exit at 1505, again entries and exit into the White House residence here marked on the log as up and down. If you study the entry below that, it also says Maggie Williams for the same entry and exit time.
Does that refresh your recollection of that particular entry?
A I don't specifically remember being up there, but it sure makes sense that we were up there for a scheduling meeting.
Q Because it approximately falls within the time frame that you thought -- you testified to earlier as to how long these meetings last?
A Yes.
Q Because you enter at 2:40, exited at 3:05, so approximately half an hour, or 20 minutes?
MR. COBB: Or exactly 27 minutes.
MR. KRAVITZ: And it's also at

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approximately the right time of day?
THE WITNESS: Yes.
BY MR. DINH:
Q Let me ask you this. Are your scheduling meetings devoted solely for the purpose of scheduling?
A Yes.
Q Do you recall at any time since January 20, 1993 since you've taken over this job, do you recall at any time any specific discussion of matters that are not related to scheduling at these daily meetings?
A Well, you know, we're all friends and I was getting engaged at the time so we talked a lot about the wedding.
Q Congratulations, by the way.
A Thank you.
Q And so some personal discussions?
A Uh-huh, yes.
Q Do you recall whether Ms. Williams and Mrs. Clinton would discuss other business besides scheduling at these scheduling meetings?

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A No.
Q Not any specific recollection? Did they ever that you just don't recall or would it have been consistent with these meetings?
A It's my recollection that when the three of us were together we talked about scheduling.
Q You talked only about scheduling, okay.
A Uh-huh.
Q Aside from the small talk?
A Aside from the small talk.
Q Not small talk. Very large personal talk but not business-related talk.
A Right.
Q Let me direct your attention now to the Monday of the following week, and that is August 14, 1995, the day -- I believe the day before Mrs. Clinton left on her trip to Wyoming, just to fix it in your mind.
Incidentally, did you go with Mrs. Clinton to her trip in Wyoming?
A No.
Q But did you stay at work or did you also go

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on vacation?
A I went on -- I stayed at work for a time and then took some vacation time.
Q When did you take your vacation? When did you leave?
A I don't recall the dates but sometime that next week, and I took six days.
Q So let me direct your attention back to Monday the 14th of August, 1995. That is the day before Mrs. Clinton left for her trip to Wyoming. Let me ask you to study again a record labeled S 020325, and for your convenience I have highlighted an entry which I would like you to focus on. That says Patti Solis entry at 1640, exit at 1840.
MR. COBB: I think it says 1641.
BY MR. DINH:
Q I'm sorry, 1641. And exit at 1840, so that's approximately at 4:41 and exit at 6:41. Do you recall this particular entry?
A Not specifically, but I'm looking at all the other names, and it looks like this was one of the weekly scheduling meetings.

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Q Can you tell me what other names on that list that you think that led you to that conclusion?
A Ann Stock, Lisa Caputo, Maggie Williams, Melanne Revere, myself.
Q And this is consistent with your earlier testimony as to the individuals, other individuals who would attend a weekly scheduling meeting?
A Yes.
Q How long would these scheduling meetings approximately last in a normal course?
A Well, I typically schedule them for two hours, but again they can run longer or run shorter.
Q As a matter of fact, this particular entry lasted exactly two hours; correct?
A On account of good scheduling, yes.
Q Incidentally, do you direct these meetings?
A I run them, yes.
Q You run them. Again, do you recall at any time since January 20, 1993 that there were discussions during these meetings of things other than related to scheduling?
A Again, we've all worked together a long

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time and friends, personal things would come up.
Q Personal things would come up, as in the normal course of a meeting of friends?
A Uh-huh.
Q Besides the personal things, did you discuss other business at these meetings other than related to scheduling?
MR. KRAVITZ: You should initially answer that question yes or no because if the answer is yes it may not be within the scope of our investigation.
THE WITNESS: Yes, at times.
BY MR. DINH:
Q Other business would be discussed at these scheduling -- weekly scheduling meetings?
A At times.
Q Do you recall at this particular meeting, what you've testified as consistent with a weekly scheduling meeting, that is on the Monday, August 14, 1995, the meeting is the meeting for the week before Mrs. Clinton left for her vacation in Wyoming, do you recall if there was any discussion of anything other than scheduling?

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A I don't specifically recall, no.
Q Do you recall the meeting?
A Specifically, no.
Q You said you would run the meeting. Do you have an agenda?
A Yes.
Q Does this agenda relate only to scheduling?
A Yes.
Q So any other business-related discussions would be incidental to the formal agenda of the meeting?
A Well, let me explain. It's really the only formal meeting where Mrs. Clinton gets together with her senior staff at one time, so if she has anything she needs to sort of dole out in terms of duties, she does so, and the same with the staff with her.
Q Now, focusing on the period between July and August, the period of July and August of 1995, do you recall at any time either in the daily scheduling meetings or in the weekly scheduling meetings, do you recall any discussions of Whitewater Development Corporation?

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A Not that -- no, not specifically, I don't recall it.
Q Any discussions -- do you recall any discussions of Madison Guaranty Savings & Loan Association, or Madison?
A No.
Q Of Jim McDougal?
A No.
Q Susan McDougal?
A No.
Q Seth Ward?
A No.
Q Alston Jennings?
A No. First time I've ever heard that name.
Q Do you recall any discussions of the Rose Law Firm generally?
MR. KRAVITZ: Are we still talking about these scheduling meetings?
BY MR. DINH:
Q During these scheduling meetings, the daily and weekly scheduling meetings.
MR. COBB: And the period July and August

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15 of 1995?
MR. DINH: Yes.
THE WITNESS: Not specifically, no.
BY MR. DINH:
Q How about more specifically, any discussions of any billing records of the Rose Law Firm, again during these daily or weekly scheduling meetings?
A No.
Q In July and August of 1995?
A No.
Q Have you ever had any discussions ever with Mrs. Clinton relating to Whitewater Development Corporation?
A I remember the only really specific conversation was when the billing records were found and she was going on a book tour the next week and just basically we talked about what bad timing this is because no one is going to want to hear about the book, they're going to want to hear about this, but nothing else.
Q Now, was this in the context of a

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scheduling meeting also?
A Yes.
Q Was that a passing observation or did you change the schedule substantively in response to that observation?
A Are you asking if I changed the schedule because the billing records were found?
Q Yes.
A No.
Q You just -- somebody made the observation that this is just bad timing?
A Right.
Q Did you make that observation?
A I don't remember. I might have. I have made that observation when the billing records were found.
Q When you say when the billing records were found, what time period are you talking about?
A I mean I found out about it on the news, whatever day.
Q In early January of 1996, early January of this year?

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A Yeah, I believe so.
Q And you said you found out about it on the news?
A Uh-huh, yes.
Q Other than this discussion with Mrs. Clinton in the scheduling meeting, did you have any other discussions with anyone in the White House regarding the Rose Law Firm billing records after they were found?
A Sure, but the same observations, what bad timing, she's going on a book tour.
Q Did you have any discussions regarding the circumstances under which they were found?
A No.
Q Let me direct your attention now to a sheaf of documents that are labeled DKSN 28928 through DKSN 29043 and let me describe them briefly for the record. They are a stack of photocopies, some in black and white and some in color, that is approximately 11 by 17 in size and approximately an inch in thickness, and let me hand those to you and ask you to take a look at them.

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(Witness reviewed the document.)
Have you ever seen these records before?
A No.
Q Have you ever seen any records that resemble something like this, that is by resembling, I say measuring 11 by 17 approximately 1 inch in thickness?
A Only on C-SPAN.
Q I'm glad to hear somebody is watching C-SPAN. They all tune in to watch Mr. Kravitz.
MR. KRAVITZ: That's what we hear.
MR. COBB: That's what the polls show.
(Laughter.)
BY MR. DINH:
Q And then let me -- I know you answered it in general, and let me just be very thorough and ask you in specific, have you ever seen these records, the ones I've shown to you and you've studied, in the White House?
A No.
Q Have you ever seen them in the White House residence?

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A No.
Q You've never seen them, anybody carrying them in the White House or in the White House residence?
A No.
Q You've never seen them lying on a table somewhere or on a bookshelf or something like that in the White House or White House residence?
A No.
Q Other than the discussions that you have told me about earlier regarding the observation of what poor timing this was with Mrs. Clinton and some other office conversations after the discovery of the Rose Law Firm billing records, have you overheard any discussions about the Rose billing law -- Rose Law Firm billing records in the White House?
A No.
Q Do you know who Mary Ann Delarives is, D-e-l-a-r-i-v-e-s?
A No.
Q Do you know who James Fuller is?
A Yes.

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Q Who is he?
A He's an attorney, I don't know the name, he works with Bob Barnett.
Q At Williams & Connolly?
A Yes.
Q Is he Mr. Barnett's assistant, do you know?
A I don't know. He handles tax issues for Mrs. Clinton.
Q Do you know who Steven Gordon is?
A No.
Q Do you know who Pat Griffin?
A Yes.
Q Who is Pat Griffin?
A He's an assistant to the President for legislative affairs at the White House, but I think his last day was last week, actually.
Q Was last week?
MR. KRAVITZ: I think he works in the Senate now.
BY MR. DINH:
Q Do you know who Bill Knapp is?
A No.

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Q Do you know who Ian McWilliams is?
A No.
Q Do you know who Tom Oaks, O-a-k-s, is?
A No.
Q Do you know who Mark Paris is?
A No.
Q Do you know who Lisa Perez is?
A No.
Q Do you know who Billy Perry is, or William Perry or Bill Perry, P-e-r --
A Secretary Perry?
Q Is that the only William Perry you know?
A Yes.
Q Do you know a Billy Perry?
A No.
Q Other than Secretary Perry?
A No.
Q Have you ever heard anybody describe -- refer to Secretary Perry as Billy Perry?
MR. COBB: Just you two seconds ago.
THE WITNESS: Yes.
BY MR. DINH:

Q Other than me two seconds ago?
A Yes.
Q Just so the record is clear, I was not referring in specific to Secretary Perry when I was asking that question.
MR. COBB: His parents may have called him that, though.
MR. DINH: Off the record.
(Discussion off the record.)
BY MR. DINH:
Q Back on the record.
Do you know who April Springfield is?
A Yes.
Q Who is April Springfield?
A She's an intern in the social office, I believe.
Q Is she still an intern right now?
A I'm not sure. I haven't seen her around lately. I'm not sure.
Q The social office of the White House?
A Yes.
Q Does the First Lady have her own social

office?
A The social office of the White House is in the East Wing.
Q No, but I mean like is there a formal office like the social office for the First Lady or does the White House social office handle both the First Lady and for the President?
A The White House social office handles it for both, the President and the First Lady.
Q Do you know who Sheila Martinstone is?
A No.
Q Do you know who Ellen Torika is, T-o-r-i-k-a?
A No.
Q When you are compiling the private schedule for the First Lady, does that include everything that she does in a day, and by that, I mean like does it include everything she does from waking up to going to bed?
A No.
Q It does not?
A No. The schedule is basically reflecting

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what should happen that day. If things get canceled it's not reflected on the schedule, or if she, you know, she has phone and office time or downtime, I don't know what she does during that time.

Q Do you take that into account, do you put phone or office time into the schedule?

A Yes, when the schedule allows for it.

Q Do you include like other things on the schedule, like exercise time?

A Well, I used to try to, to try to get her regimen of working out, but it didn't work so I don't do that anymore.

Q And when you used to do it, how often would you schedule the exercise time? And by "often," I mean on a weekly basis, how many days a week or something like that?

MR. KRAVITZ: Why don't --

THE WITNESS: I just --

MR. KRAVITZ: Why don't we limit this. Can we limit this to a relevant time period, like in 1995? I mean at a certain point it really becomes kind of intrusive in the First Lady's privacy, unless

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it's directly relevant to something having to do with the book room, which I assume is what you're aiming at.

MR. DINH: I would like to get the general practice first before I start focusing down.

BY MR. DINH:

Q Can you answer the question, please?

A I would just allot an hour of private time.

Q Of private time. An hour a week or an hour a day?

A An hour a day.

Q When did you stop scheduling exercise time?

A I can't really focus on the time period but it was a very small period of time, about a month or so, and then stopped, I stopped doing it.

Q Did you schedule any such time in July and August of 1995?

A No.

MR. COBB: Off the record.

(Discussion off the record.)

BY MR. DINH:

Q Actually I am looking over my note and

indeed I missed one particular line of questioning, back toward the beginning of the deposition. I would like to refocus your attention to it. That is the July 20 through July 27, 1993 time period. And you testified earlier that Mrs. Clinton was on a trip at this time.

A Uh-huh.

Q Do you recall where her trip took her?

MR. KRAVITZ: I think her testimony was that Mrs. Clinton was on a trip for part of that time.

MR. DINH: Right.

MR. COBB: Right. I think that the testimony was that I think at the early end of the program that she was in Little Rock. I don't think there was a discussion beyond that.

BY MR. DINH:

Q Right. She was in Little Rock at the time, correct, in July -- let's say July 20, 1993, was she in Little Rock at the time?

A Yes.

Q Was she on a trip, an official trip that

you were aware of?

A Yes, it was a long trip, it was the G-7 to Seoul, Korea and Japan with the President, and then she went to California I believe and then from there to -- no, to Hawaii, California, Arkansas.

Q Were all of these stops, that is Hawaii, Los Angeles and Little Rock, scheduled in her original trip schedule, if you can recall?

A Yes.

Q Do you recall how long was her scheduled stay in Los Angeles?

A I think a couple of days.

Q And her stopover in Little Rock was also planned?

A Yes.

Q And do you recall if that plan, that is, the duration of time that she was to stay in Little Rock, changed in light of the schedule for Mr. Foster's funeral?

A Yes, I believe so. I believe she stayed there for the funeral and then came home.

Q And then came home?

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A I don't remember if she was originally scheduled to stay in Little Rock that long, but I know she stayed for the funeral.

Q Okay. Do you recall with respect to the dates now, do you recall if she was originally scheduled to be -- to land in Little Rock on July 20, 1993?

MR. COBB: I think the only concern I have about this line of questioning, Viet, is I think there must be records that sort of specifically itemize this, and they have got to be the best source of information on this as opposed to her recollection 2-1/2 years after the events. I think generally she can talk about it, but in order to establish pure accuracy, I think it would probably be best to work with those records if you have them. I'm not directing her not to answer, but I just want you to understand that I think there's probably a better source.

MR. DINH: Right, I understand that, and I understand the limitations to a witness's recollection. Thank you for making that officially

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on the record, because that is a good reminder.

BY MR. DINH:

Q Do you recall whether July 20 was the original date that she was scheduled to land in Little Rock?

A I believe so.

Q Now, I asked you this question with respect to her daily schedules, you know, her private and her public schedule. What about her trip schedules? Do you keep copies of those trip schedules?

A Yes, I do.

Q Are these separate from her two sets of the daily schedules, the private and the public schedules?

A No.

Q When you have a long trip like that or even a short one, do you make a specific schedule just for the trip?

A When there's not a long trip but a foreign trip, which it was added onto a foreign trip, we have what we call a trip book for it which is a bound book of the foreign trip, just a book of the schedules and

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site diagrams and manifests and stuff like that.
Q And do you retain a copy of that trip book?
A Yes.
Q Do you have such a trip book for her trip to the G-7 summit in Seoul, Korea?
A Yes.
Q And would this include her daily schedule for every day on the trip?
A Yes.
Q Does it include her private schedule for every day on the trip?
A Travel schedules, there's -- it's only one. It's a public schedule, it's a public and private schedule. Everything is on it because it's open -- it's public.
Q You stated earlier that you do not make up a private schedule for when she's away on a trip?
A Right.
Q And this trip book would contain all the information that you have with respect to the particular trip. Do you leave any information out that you have with respect to that trip?

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A The book consists of her schedule, site diagrams, manifests.
Q You said that sometimes the schedules are not adhered to.
A Yes.
Q When they are deviated from, do you make notations on your copy of the schedules?
A Sometimes I don't know about the deviations or if anything gets canceled.
Q The deviations that you know of, that you come to learn of.
MR. COBB: Let me just see if I can clarify this, the deviations that she learns of, there may be no distinction, but deviations she learns of after the fact, does she go back and modify the schedule?
BY MR. DINH:
Q Exactly, after the fact.
A Sometimes. I mean if they're major deviations that I learn about, like something didn't happen or she didn't go somewhere, yes, but if she's 10 minutes late or, you know, no.
Q And when you make -- when you make these

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corrections, as it were, to account for the deviations you learn of after the fact, do you make note of the original intended schedule and then whatever the deviation is or do you amend the original schedule?

MR. COBB: If you have a common practice.

THE WITNESS: The common practice is we amend the original schedule and it will reflect final schedule revised.

BY MR. DINH:

Q Do you keep a copy of the final schedule unrevised?

A No.

Q So when I get a sheet that says, just says "final schedule," is it correct that no revisions have been made to that to reflect any deviations that you learn of after the fact?

A That's right.

Q And you make such revisions with respect both to the private schedule and to the public schedule?

A Yes.

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Q And the same notations, final schedule revised for both the private schedule and the public schedule?

A Yes.

Q And I take it that is the designation, it says "private final schedule" or "public final schedule" in each of these schedules?

A No, it doesn't say private or public.

Q But just the private would probably reflect more times and more events on there than the public schedule, if there is any differences.

A The private schedule reflects, you know, maybe more lists of participants and meetings, private meetings, or you know, her personal things, like her hair being done or doctor's appointments.

Q Do you keep a trip log or do you know if anyone in the White House keeps a log for the trip?

A What do you mean by a log?

Q Like a memorandum of things that happen during the trip. Is that -- if you know.

A Not that I know of, no.

Q With respect to Mrs. Clinton's schedule on

July 20, July 21 and July 22 of 1993, those are the day of and the two days subsequent to Mr. Foster's death, do you specifically recall making any revisions to reflect any modifications that you learned of after the fact to her schedule?

A No, I don't recall.

Q Do you remember if she kept her appointment for the event at the children's hospital?

A Yes, she did.

Q You did not change that after your conversation with Maggie Williams?

A No, I didn't.

MR. DINH: I have nothing further. Thank you.

MR. KRAVITZ: I actually have a few minutes of questioning. Why don't we take a five-minute break.

(Recess.)

EXAMINATION

BY MR. KRAVITZ:

Q Ms. Solis, I actually have just a few minutes of questions. Near the beginning of your

deposition you gave us three different telephone numbers. One was 456-7560, which you identified as a general number. What's that a general number for?

A That's the general number for the scheduling and advance office of the White House.

Q So not specifically for the First Lady but for the White House scheduling and advance?

A Right.

Q Then you gave us 456-2468, which you identified as your direct line?

A Yes.

Q And the number 456-5318, which was the general number for --

A First Lady's scheduling.

Q Is that different than the general number for the Office of the First Lady?

A Yes.

Q What's that number?

A 456-6266.

Q Now, are these four numbers -- these are currently the numbers for those four different entities that you've identified?

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A Yes.
Q Were these same four numbers in use for the same purposes back in 1993?
A The 2468 number definitely.
Q 2468 was your direct line?
A Mine, yes. The 6266 number definitely. I am not sure about the 5318. That was put in I don't know how long ago but fairly recently, maybe a year or so ago, and the 7560, I'm not sure, I don't know when they installed that number.
Q Okay. So 456-5318, which is the general number for the First Lady's scheduling, would not have been in use for that purpose back in the summer of 1993; is that correct?
A Yes.
Q When you get a call in your office, in your personal office, are you able to tell which line the call came in on?
A We have caller ID on our phones, which is also recent, so yes, my 2468 number lights up but it could have come from the general number, someone transferring from the general number, or could have

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come directly.
Q Back in July of 1993, did you have this Caller ID feature on your telephone?
A No.
Q So were you -- in July of 1993, if you got a telephone call in your personal office, were you able to tell what number the person calling you had dialed before that person got to your telephone?
A No.
Q You testified that you spoke often with Susan Thomases back in 1993. Do you know whether as a general practice Ms. Thomases called you on your direct personal telephone line or whether she called you -- or called the main office for the Office of the First Lady and was transferred to you?
A I don't know. She has my number. I don't know.
Q She has your direct number?
A Yes, but --
Q But you don't know whether she calls that or whether she gets you through the number for the Office of the First Lady?

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A Uh-huh, I don't know.
Q How many other people -- strike that.
In the time period of the summer of 1993, how many people working within the Office of the First Lady other than you, to your knowledge, spoke with Ms. Thomases?
A Oh, lots of people. As I said, you know, most of Mrs. Clinton's staff worked on the campaign, Susan worked on the campaign, so I'm sure she called a lot of people. I don't know specifically who she talked to and who she didn't talk to.
Q But it's fair to say that you and Ms. Williams, Maggie Williams, were not the only two people working in the Office of the First Lady in July 1993 with whom Susan Thomases spoke on the telephone?
A Oh, no, I mean there were a lot of people she spoke with.
Q And so if phone records show that Ms. Thomases placed a call to the main number for the Office of the First Lady in July 1993, is there -- should the Committee conclude that Ms. Thomases

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definitely spoke with Maggie Williams at the time that those phone records indicate that there was a call from Ms. Thomases to the office, the general number of the Office of the First Lady?
MR. DINH: That was a should, did you say, should the Committee conclude?
MR. KRAVITZ: Yes.
MR. DINH: Or could it conclude?
MR. KRAVITZ: The question -- let me rephrase the question.
BY MR. KRAVITZ:
Q If phone records indicate that Susan Thomases called the general number for the Office of the First Lady in July 1993, should the Committee conclude that that necessarily means that Susan Thomases spoke with Maggie Williams at that time?
A No. The 6266 number is also the number I call to speak to anyone. I mean that 6266 number houses Lisa Caputo, the press secretary, everybody in the press office, the Deputy Chief of Staff, everybody in that office, Maggie Williams, everyone in the outer office. I mean the 6266 number will

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connect you to anybody in the First Lady's office.
MR. KRAVITZ: Thanks. That's all I have.
EXAMINATION
BY MR. DINH:
Q I just have a couple of more questions for you and then we can end this and have some lunch.
A Great.
Q And specifically they deal with -- they deal again with the time period between July 24, 1993 through July 27, 1993. As you recall, July 24 I represented to you earlier is the Saturday after Mr. Foster's death. I take it Ms. Thomases has your home phone number?
A Yes.
Q Does she often call you at home?
A Again, I'm having trouble with "often," but she calls me at home.
Q She calls you at home?
A Yes.
Q Does she call you at home, say, once a month or twice a month?
A Maybe, that's about right.

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Q But you testified earlier that you had no specific recollection of a call to you from Ms. Thomases on July 24, 1993?
A No.
Q Now, I showed you earlier, and let me show you again, a document labeled ST 00126. Do you recall this document?
A Yes.
Q It's the message that says Patti Solis called Susan Thomases and the message is "HRC wants to see you today."
MR. KRAVITZ: This is July 27, 1993.
BY MR. DINH:
Q I'm sorry, July 27, 1993. Thank you, Mr. Kravitz.
And you said you did not recall seeing this? I'm sorry --
MR. COBB: She wouldn't have had any reason to see it.
BY MR. DINH:
Q I'm sorry. You did not recall placing this call?

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A No, I don't.
Q And do you recall receiving a return call to you to schedule such a --
MR. KRAVITZ: Viet, do you have a new angle on this? I think we've gone through this already.
BY MR. DINH:
Q And you said that you did not recall a call back to you to schedule this?
A No, I don't recall it.
Q Let me focus your attention even a little bit more focused because there is no time on that. As you can see, there is no time recorded on that particular message slip. Do you recall placing this call sometime in the morning of July 27, 1993?
A No, I don't recall it.
Q Do you recall receiving a phone call back from Ms. Thomases' office right before lunch, and by right before lunch, I would say approximately 11:30 on July 27?
MR. COBB: I think the difficulty here, Viet, is that what she said is she doesn't have an independent recollection of a return call at all.

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You know, if --
MR. DINH: I'm trying to focus her attention a little bit more to the time period and by referring to her to before lunch, I'm trying to focus your attention.
BY MR. DINH:
Q Again, I'm not playing "gotcha" here with you. I'm trying to focus your attention so that hopefully we can refresh your memory a little bit more.
MR. COBB: And I respect that. I just want to make clear that's what's going on. She's answered the question several times to the effect that she doesn't have an independent recollection of these calls. If they were made, that's a distinct possibility, but that she doesn't specifically recall them.
BY MR. DINH:
Q Certainly. I'm just trying to probe your recollection.
Do you recall receiving a phone call from Ms. Thomases' office before lunch on that day?

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A No, I don't.
Q Let me show you now what is labeled ST 123. Let me represent to you that that is what has been produced to us by Ms. Thomases as reflecting certain telephone records from her office here in Washington, D.C. And the phone call was made to 456-2468. This is the phone call that I have highlighted on the particular document, and the time that it reflects, the date of course is 7-27 and the time is 11:33. And the duration was approximately a minute and 12 seconds, or actually exactly a minute and 12 seconds, may be approximately without nanoseconds, but does seeing that specific record refresh your memory at all with respect to this particular --
MR. COBB: Can you represent to me, I mean just because it's not clear. I'm sure that you guys have checked this out, but is this 2468? Because the 8 is not clearly legible.
MR. DINH: Yes. Let me represent to you that it is 2468.
THE WITNESS: I don't recall it.

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BY MR. DINH:
Q 456-2468 is your direct line; correct?
A Correct.
Q And you testified earlier that is your sole -- you are the only person with access to that line?
A Yes, but you know, sometimes there are people in my office and they will pick up my phone for me.
Q Right. But if I were to dial 2468, I would dial that expecting to get you?
A Yes.
Q But somebody else, of course your secretary could certainly pick up your line when you're not there?
A Yes.
Q Now let me focus your attention now on a hypothetical, and I would like to -- I'll tell you that, I'll give you this hypothetical in order to learn what is exactly reflected on the First Lady's schedule for a particular day, okay? When do you finalize her private schedule for, let's say

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tomorrow? Do you finalize it today or do you finalize it tomorrow morning?
A We would finalize it the evening before.
Q The evening before. And that's what you print out as the final schedule?
A Yes.
Q Does that schedule that you finalize on the evening before, on top of it it has the heading "final schedule"?
A Yes.
Q For the relevant day, whatever the date may be?
A Yes.
Q Now, if you subsequently make revisions to that final schedule, it would say "final schedule revised" as you testified earlier?
A Yes.
Q So if there are changes to Mrs. Clinton's schedule, let's say two days -- for a schedule for two days from now, and you make -- I take it you have a preliminary idea as to what her schedule is two days from now?

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A Oh, yes.
Q And if there's anything that changes in that schedule from now and the evening before two days from now, that will be reflected in the final schedule?
A Well, let me explain. Of course we have an idea of what Mrs. Clinton is doing two days from now, and we have what is called a draft schedule for two days from now and it continues to stay a draft until the evening before and then becomes final.
Q Becomes a final schedule. And you would make changes to the draft as they happen?
A Uh-huh, yes.
Q Do you keep copies of the draft schedule?
A No.
Q That would make sense, also, Paperwork Reduction Act.
Now, during the day you have this final schedule. Let's say you have a final schedule for today, okay?
A Yes.
Q During the day Mrs. Clinton asks you to

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schedule a meeting sometime that day with, say, Susan Thomases, okay? That's the hypothetical that I'm asking you to consider. How would that be reflected on the final schedule, if at all?

A We would put it on the final revised schedule.

Q You would put it on the final revised schedule?

A If Mrs. Clinton calls me and asks me to schedule a meeting with anyone for that day, it would be reflected on the final revised schedule.

Q And you would make that revision?

A Yes.

Q Because you would have firsthand knowledge that you are revising, of deviation from the final schedule, as we've talked about earlier?

A That's right.

Q And when you do have that firsthand knowledge, you would make out a revised schedule, you would put out a revised schedule?

A Yes.

Q Would there be any reason for you not to

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put out that revised schedule, not to revise it and just leave a final schedule?

A No. Again, if there are major changes, I would revise it. If she's running 10 minutes late I wouldn't revise minor changes, no.

Q Would a meeting with Susan Thomases be, in your mind, be a major change?

A Any added meeting is a change.

Q Is a major change?

A Yes.

Q That would call for a revision?

A That she called me to do, yes, but if I didn't know about it, I wouldn't change it.

Q Of course you wouldn't have any knowledge and any basis to change it. And so any formal revisions and any added meetings or any subtracted meetings or any deleted meetings would be reflected in a revised final schedule, that you are aware of or that you personally scheduled or unscheduled?

A Yes.

Q Just one last question. I would just remind you that you are still under oath. Do you

know who the author of "Primary Colors" is, who goes by the name of Anonymous?

A No, I don't. I wish I did.

MR. DINH: I'm surprised Mr. Kravitz did not yell "out of scope." Thank you very much.

(Whereupon, at 12:55 p.m., the deposition was concluded.)

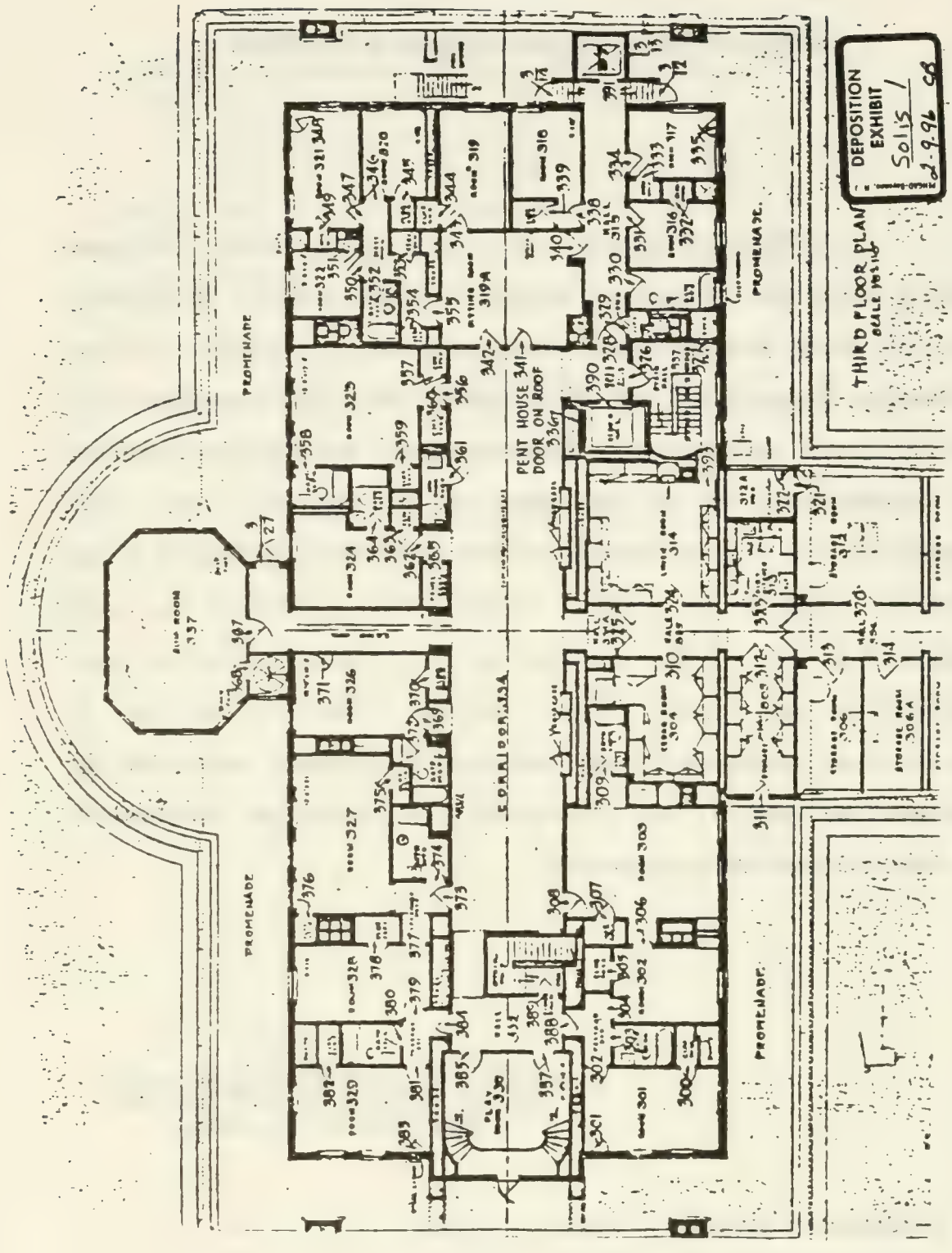
PATRICIA SOLIS

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998


DEPOSITION EXHIBIT
Solis /
2.9.96 cs
THIRD FLOOR PLAN
PROMENADE
PROMENADE
PROMENADE
PROMENADE
PENT HOUSE 341
DOOR ON ROOF
3367
SPRING GARDEN

DEPOSITION OF HELEN DICKEY
IN RE: S. RES. 120

MONDAY, FEBRUARY 12, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of HELEN DICKEY, called for examination pursuant to notice of deposition, at 1:55 p.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, ESQ.
Majority Associate Special Counsel
JAMES S. PORTNOY, ESQ.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

JOHN R. TISDALE, ESQ.
Wright, Lindsey & Jennings
200 West Capitol Avenue
Suite 2200
Little Rock, Arkansas 72201–3699
On behalf of the Deponent.

ALSO PRESENT: ROBYN DICKEY

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EXHIBITS

Helen Dickey

DEPOSITION NUMBER	IDENTIFIED
Dickey Exhibit 1	22, 2940
Dickey Exhibit 2	45, 2941

PROCEEDINGS

MR. DINH: Ms. Dickey, as you know, my name is Viet Dinh. I am with the Majority staff and Mr. Jim Portnoy is here and he is with the Minority staff. I understand that Mrs. Robyn Dickey who is your mother, has asked to sit in through the deposition, without objection, Jim.

MR. PORTNOY: We have no objection.

MR. DINH: I have agreed to the presence of Mrs. Robyn Dickey with one proviso which should be implicit but I will make explicit; you must also comply with the confidentiality procedures I will set forth.

Resolution 120 establishes a Special Committee to investigate Whitewater Development Corporation and related matters. The Special Committee is administered by the Senate Banking Committee, and it is authorized to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, and other related matters.

As you may know, the Special Committee has

investigated and conducted hearings into a number of subjects. I will be asking you some questions which may be related to those subjects but I want to focus on two particular time periods; that is, July 20 through July 27, 1993, and approximately mid-July to mid-August, in 1995, that is of last year.

Section 1(b)(1) of Resolution 120 authorizes an investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death."

Section 1(b)(3)(A) of Resolution 120 authorizes an investigation and public hearings into "the operations, solvency and regulation of Madison Guaranty Savings & Loan Association, and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes an investigation and public hearings into "the policies, practices" -- "policies and practices

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of the RTC and the federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association."

I anticipate that these will be the focus of today's deposition.

The testimony will be taken under oath, and the stenographer will prepare a record of questions and answers. This deposition is taken in advance of public hearings, which are continuing right now.

While we have not made a final decision who will be among the witnesses as to such hearings, I understand one of my colleagues has been in contact with your counsel, Mr. Tisdale, and advised him we have a tentative plans scheduled for Wednesday of this week, and we will let you know the final decision as soon as that is reached.

MR. TISDALE: Oh, I thought it was final. He said he was going to subpoena her if we didn't agree to show.

MR. DINH: The transcript -- there will be a transcript made of today's deposition and that

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transcript will be treated as Committee confidential until the commencement of the hearings, if and when you are called to testify. At that time the transcript may be made public in whole or in part, and if you are called at the hearings, we will provide you with a copy of your transcript as soon as it is available. The provision of the transcript is for the limited purpose for your review, and for your preparation of the testimony in front of any public hearings. It is not to be disclosed for any other reason.

And Mrs. Dickey, those are the confidentiality procedures I alluded to earlier.

MR. TISDALE: If I can interrupt you, I presume that I have the opportunity to review the transcript with her.

MR. DINH: Yes, of course, of course. You may be, of course, represented by counsel. And if Mr. Tisdale can make an appearance for the record, that would be great.

MR. TISDALE: I am John Tisdale, Little Rock, Arkansas attorney. I am representing Helen

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Dickey.

MR. DINH: Pursuant to the procedures set forth in Resolution 120, objections to the form of the question shall be noted for the record. There are two grounds upon which counsel may object and give you instructions not to answer, and those two grounds are privilege or scope. Your answer to the question may ask you to divulge some matter that is privileged, or that the question falls outside the scope of the resolution.

Again, according to Resolution 120, the Committee Chairman will ultimately rule on objections where you refuse to answer a question on the advice of counsel.

Would you swear in the witness, please.

Whereupon,

HELEN DICKEY

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. TISDALE: May I ask one question of clarification before you start. With respect to the scope, did I understand you to say that you were

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relying on 1(b)(3) of the Senate Resolution 120?

MR. DINH: Right, 1(b)(3), yes, (A) and (C).

MR. TISDALE: Fine.

MR. DINH: And Section 1(b)(1) with respect to Resolution 120 with respect to handling of records in Mr. Foster's office after his death.

And also, thank you very much for calling my attention to that, Mr. Tisdale. I don't anticipate it to be a problem but I am also relying on 1(b)(3)(D), and that states they authorize an investigation and hearings into "the handling by the RTC, the Office of Thrift Supervision, Federal Deposit Insurance Corporation and the Federal Savings & Loan Insurance Corporation of civil or administrative actions against parties regarding Madison Guaranty Saving & Loan Association."

Thank you very much for that clarification.

EXAMINATION

BY MR. DINH:

Q Ms. Dickey, can you state your name for the

record.
A My name is Helen Dickey.

Q Ms. Dickey, from your -- the notice of your deposition, have you had any conversations with anybody besides your immediate family members and your attorneys about the substance of the subject matter about which you are about to testify?
A My boyfriend.
Q And what is his name?
A Kevin Stewart, S-t-e-w-a-r-t.
Q Is he related to Amy Stewart?
A Not that I know of.
Q Without telling me what you were asked or what you said, have you been interviewed or questioned by any investigative agencies other than the Senate Banking Committee right now?

A Yes.
Q Can you tell me when?
A I spoke with two FBI agents on October 31 of 1994, and I spoke to two more in Little Rock last Wednesday night.
Q Last Wednesday would be the 7th?
A Yes.
Q I only know that so quickly because this Wednesday is the 14th.
MR. PORTNOY: Off the record.
(Discussion off the record.)
MR. DINH: Back on the record.
BY MR. DINH:
Q Both of these sets of FBI agents represented to you that they were working for the Office of Independent Counsel?
A Yes.
Q Can you give me a brief history of your educational background?
A I graduated high school in Little Rock, and went to college at the University of Arkansas in Fayetteville, graduated in 1992.

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Q Did you go to work in 1992 after graduation?
A I went to work actually before I graduated.
Q For whom did you work for?
A For the state of Arkansas.
Q In what capacity?
A I was the assistant to the governor's mansion administrator.
Q And who was the governor's mansion administrator?
A Ann McCoy. No E.
Q And when did you start that job?
A December of '91.
Q December of 1991. And what did that position entail, Ms. Dickey?
A It entailed general office duties, the planning and assisting of governor's mansion events.
Q And how long were you -- when did you leave that job?
A I left that job in January of 1993.
Q Were you subsequently employed after January of 1993?

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A Yes.
Q By whom?
A The White House.
Q What was your position there?
A I was the staff assistant to the social secretary.
Q And who was the social secretary?
A Ann Stock.
Q With the E?
A No E.
Q What did that position entail?
A General office duties as well, which evolved into clearing in all of the guests for all of the White House events, as well as attending the parties and making sure that everything went as planned.
Q From January 1993 until when?
A I was at that job until October of 1994.
Q And subsequent to October 1994?
A I moved over -- I was still employed by the White House, worked as a database administrator on the White House database.

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Q To whom did you report to?
A Marsha Scott at first, and that changed in January of 1995 to Jodie Torkelson, T-o-r-k-e-l-s-o-n.
Q That is Ms. Torkelson took over the position of Ms. Scott in January of 1995, or did you change jobs?
A No, neither.
Q Can you explain?
A The responsibility was transferred --
Q Okay.
A -- from Marsha to Jodie.
Q The responsibility being database administration?
A Being the person to whom I reported.
Q Just the supervisory authority?
A Right.
Q Are you still presently employed by the White House?
A No, I am not.
Q When did you leave the White House?
A In August of 1995.

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Q August when, do you know?
A I think my last day was the 17th.
Q Just to be sure, did I skip any steps between January of 1995 and August 17 of 1995?
A No.
Q You were still working on database administration reporting to Jodie Torkelson?
A That's right.
Q Were you during this relevant period, that is from December 1991 through August 17, 1995, employed by the Clintons in their personal capacity, in addition to your official job position at the White House?
A I did personal things for them. I was not employed by them personally.
Q Okay. Just to close out the loop, since August 17, 1995, have you moved back to Little Rock, I take it?
A I have.
Q Have you been employed there?
A I have, by Clinton/Gore Primary Committee, Clinton/Gore '96.

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Q You have been in that position since August 17, 1995 to the present?
A Since September 5th.
Q Okay. And what is your position there?
A Deputy director of correspondence.
Q Let me go back now to the top of the list and refer you back to your job in the Arkansas governor's mansion. I take it at the time President Clinton was then governor?
A He was.
Q Did your job as assistant to the mansion administrator entail any recordkeeping?
A No, it did not.
Q Did you -- did it entail the handling of any records?
A I did a lot of filing.
Q You did a lot of filing.
Would the directions for your filing assignments come directly from the mansion administrator, Ms. McCoy?
A Yes.
Q Did anybody else give you directions as to

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what to file?
A No.
Q Did anybody else give you records in order to file?
A No.
Q So everything, records and directions came from Ms. McCoy?
A That's right.
Q What sort of records were you asked to file, if you can describe them in general terms?
A I don't remember.
Q Were you filing letters?
A I filed memos, receipts.
Q Receipts for the White House -- I mean, for the governor's mansion expenditures?
A Yes.
Q Or did you file any receipts for the Clintons' personal expenditures?
A Not that I remember.
Q Okay, I'm sorry. You can go on with your list. Memos, receipts?
A I don't recall anything else.

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Q Okay. These would be internal memoranda that you were filing?
A Yes.
Q Internal to the governor's mansion or internal to the Arkansas state government?
A To the governor's mansion.
Q To the governor's mansion.
Were you asked to handle outside correspondence at all, from the governor to other persons?
A No. No.
Q I take it he has a correspondence office that handles that?
A I don't know that. I am sure that he does.
Q Were you -- besides the receipts for the expenditures of the governor's mansion, were you asked to handle or file any other type of financial records?
A Not that I remember.
Q Were you ever asked to assist in the handling or the filing of any personal records or

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documents for Mrs. Clinton or Governor Clinton?
A Not that I remember.
Q When you say not that you remember, do you mean that it did not happen and therefore you do not remember, or do you mean that it could have happened and you similarly have no independent recollection of any such?
A It could have happened. I don't remember.
Q Nothing sticks out in your mind as a general thing?
A No.
Q Were you involved in Governor Clinton's presidential campaign in any capacity?
A Not in any official capacity.
Q Did you volunteer with the campaign?
A I did some volunteer work, yes.
Q What did this volunteer work entail?
A My mother worked in the compliance department, and I often would go down and add checks up and get them ready for deposit.
Q The compliance department?
A Accounting.

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Q Accounting department, I'm sorry.
For this volunteer period of time when you were -- while you were performing these volunteer services for the campaign, besides the checks that you had to add up, did you handle -- did you handle or file any other records?
A No.
Q Just simply the checks? And did these checks deal exclusively with the campaign finances?
A Yes.
Q They didn't deal with the personal finances of the First Lady or President Clinton?
A No.
Q And then when President Clinton was elected in -- and sworn in in January of 1993, you came with him to the White House?
A Yes, I did.
Q Did you have an office in the White House when you were working as a staff assistant to Ms. Ann Stock?
A Yes, I did.
Q Where was your office located?

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A It was in the east wing, second floor.
Q Did this remain your office through August 17, 1995?
A No.
Q Okay. Can you tell me when you moved?
MR. PORTNOY: Could you clarify with her previous testimony, some witnesses have referred to the east wing and the west wing meaning only the office areas and others have spoken of an east and west wing within the residential. Are you referring to the office?
THE WITNESS: The office area, yes.
BY MR. DINH:
Q You are familiar with the layout of the White House?
A Yes.
Q The east wing and west wing are not considered the White House residence?
A Right.
Q The residence is the big chunk in the middle?
A Yes.

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Q Your office was in the east wing?
A Yes.
Q When did you move from that office?
A In October of 1994.
Q When you changed jobs to your database administrator job?
A Yes.
Q To where did you move?
A I moved to the Old Executive Office Building.
Q What room number?
A 98.
Q And did you stay there through August 1995?
A Yes, I did.
Q Did you have any other space that you would consider your own? And by that I mean like an office or informal working space, that you had in the White House residence.
A I lived in the White House residence from January -- January of '93 until November of '94.
Q On the third floor?
A On the third floor.

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Q What room number?
A 301 and 302; I had a suite.
Q Let me refer you now to what I will ask to be labeled Dickey Exhibit Number 1.
(Dickey Exhibit 1 identified.)
BY MR. DINH:
Q Let me direct your attention to the lower left-hand corner of that -- of the exhibit which I will represent to you is a relatively old diagram of the third floor of the White House residence. And by "old," I mean I believe this was done during the Truman renovations, during the Truman Administration and there are some changes in there. The relevant ones I will ask you to tell me or I will represent to you directly.
But directing your attention now to the lower left-hand corner of that diagram where it is marked rooms 301 and 302, is that the suite of rooms that you were referring to earlier?
A Yes, it is.
Q And you resided in the suite of rooms continually from January of 1993 until November of

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1994?
A Yes, I did.
Q Did you move out of the White House residence in November of 1994?
A Yes, I did.
Q So you were in a private residence from November of 1994 to August 17, 1995?
A That's right.
Q At one residence?
A Yes.
Q Can you give me the address of that residence?
A 1670 34th Street Northwest, and it was a basement apartment.
Q So was there an apartment number like B or something?
A No.
Q Besides your suite of rooms, did you have another work space in the White House residence?
A No, I did not.
Q So you worked in the suite of rooms there whenever you needed to do some work while you stayed

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there?
A I did not do any work there.
Q You did not do any work.
I take it during this period of time, when you were living in the White House residence, you saw the Clintons on a regular basis?
A Yes, I did.
Q Daily?
A Not daily.
Q Once every other day?
A I would say two or three times a week.
Q Whenever you happened to run into them?
A On average, two or three times a week.
Q Whenever you happened to run into them since you were living upstairs from where they lived?
A Yes.
Q The First Family lives on the second floor?
A That's right.
Q Did you continue to see them regularly after you moved out of the White House residence?
A Not nearly as regularly as I did.
Q Did you have occasion at times to go into

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the White House residence after you moved out?
A I had occasion to, yes.
Q And how regular were these occasions where you would go in there, once a week, twice a week?
A Once a week.
Q I will direct your attention to more specific time periods, but I wanted to get a more general idea at this point.
Let me direct your attention now to the night of or the evening of July 20th, 1993, and the evening should stay fairly clearly in all our minds that was the evening that White House Deputy Counsel Vincent Foster passed away. Do you recall that evening?
A Yes, very well.
Q I would like to focus your attention, and try to jog your memory by going through the evening very systematically, to make sure we cover all our bases and to make sure we get your best recollection.
Where did you have dinner that night?
A I don't remember.
Q You don't remember. But at that time you

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were living in the White House residence?
A Yes, but I did not have a kitchen, so I -- I often went without dinner.
Q Okay. Did you hear that, Mrs. Dickey?
On a normal day, at this time, I believe your office was in the east wing of the White House?
A Yes.
Q You would get off work in your office -- you would do most of your work in the east wing office?
A Yes.
Q That's during the day?
A Yes.
Q And then at approximately what time would your normal schedule permit you to get off work?
A During this period of time?
Q Yes, during this period of time.
A Anywhere between 6:00 and 8:00.
Q Between 6:00 and 8:00. Do you recall that particular night, that is July 20th, 1993, what time approximately did you get off work?
A I don't recall what time I got off work. I

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would say it was between 6:00 and 8:00.
Q Between 6:00 and 8:00. Incidentally, does your office have a lock on it?
A At that period of time it did not. I had a central office, so my office, the suite of offices had a lock on it. I moved in September of 1993, within the suite, to a private office that did have a lock.
Q During this time you were in the general common area of the suite of offices?
A That's right.
Q And the suite of offices would be the social office?
A The social office.
Q Do you recall what room number that was?
A 200.
Q Room 200, and that had a lock on it, the main door had a lock on it?
A That's right.
Q Do you know if that lock is locked on a nightly basis by the Secret Service?
A It's normally locked.

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Q It is normally locked?
A By the last person out of the office.
Q Just simply with a key?
A Yes.
Q Do you know if the Secret Service has an alarm on that lock, on that door?
A I do not know.
Q Have you had occasion to lock it when you were the last person out from time to time when you were working in that office?
A Yes.
Q When you do so, you just simply turn the lock and lock it?
A Yes.
Q Do you make a call down to the Secret Service and tell them to activate their alarm?
A No.
Q That's not the normal procedure you would follow?
A No.
Q That kind of procedure was not instructed for you at the time you joined the office?

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A That's right.
Q You simply punched a button and turned the key?
A Turn the key.
MR. TISDALE: Let him finish his question before you answer. I am not sure she can get both of you.
THE WITNESS: Okay.
BY MR. DINH:
Q And in the morning when you come in, have you had occasion to be the first one in the office?
A Yes, I have.
Q At that time you simply put your key back in and unlock the door?
A That's right.
Q You don't have to call down to the Secret Service in order to deactivate any alarms?
A That's right.
Q Okay. So you testified earlier that if July 20, 1993 was like any other night, you would expect to be getting off work any time between 6:00 to 8:00?

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A That's right.
Q You don't remember approximately when in this two-hour time frame that you left work that night?
A No.
Q Okay. Was it light out when you left?
A I don't remember.
Q You have a fairly short walk from the east wing to the White House residence, I take it. Do you take the tunnel? Is there a tunnel going from the east wing to the White House residence or is it a normal hallway?
A There is just a normal hallway.
Q When you walk from your office, from the east wing to the White House residence, do you usually enter the White House residence at the ground floor?
A Yes.
Q At the -- and take the elevator up to the third floor, or wherever in the residence you were going?
A Yes.

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Q Do you remember if this was the route that you took that night?
A I don't remember.
Q But that would be your normal course?
A Occasionally I would stop off in the ushers office to visit with the ushers, so that was on the first floor.
Q On the state floor?
A Yes.
Q When you do stop off, do you still go through the ground floor and then stop at the ushers office, or do you enter through the state office?
A No, I walked up the stairs from the ground floor to the ushers office.
Q You stated you did not remember where you had dinner, and it is very likely you would have gone without dinner?
A Probably true.
Q Do you recall what you did after you left work? After you left work and came into the White House residence, did you stop off at the ushers office that night?

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A I don't remember that.
Q You don't recall. At some point did you make it back to your room?
A Yes.
Q Did you make it -- do you remember going directly up to your room, or did you stop off elsewhere?
A I don't remember.
Q You don't recall, okay. So at some point you found yourself -- you were in your room. Do you remember approximately when was the first time -- what time it was when you first came into your room?
A No, I don't.
Q Did you stay in your room for the rest of the night?
A No.
Q What did you do then?
A I went up to the solarium, to watch the President on Larry King Live.
Q And directing your attention now to the exhibit that was -- that is placed in front of you that is labeled Dickey 1, is the solarium the room

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labeled here the sun room, room 337?
A Yes, it is.
Q That is just over the portico; is that right?
A No, it is over the Truman balcony.
Q On the south side?
A Overlooking the south lawn.
Q Are you looking out toward the Washington Monument?
A Yes.
Q Thank you. So you are pretty well oriented now with the diagram?
A Right.
Q That is south, I am drawing here?
A That's right.
Q So you went to the sun room. Was there a TV set in the room at the time?
A Yes.
Q Is there normally a TV set in the room?
A Yes.
Q Actually can you take my pen here and put an X through where the TV set was.

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A (Witness complied.)
MR. PORTNOY: The record should reflect that the witness has marked the solarium on the -- on the diagram, on what would be the lower portion of the room to the right of the entry door.
MR. DINH: With a red pen.
Actually in order to make it show up clear, I will put a circle right behind it with the same pen so when it gets photocopied for the record, it will show up a little easier.
MR. PORTNOY: That would be the northwest side of the room.
MR. DINH: Right. Adjacent to the door as you enter.
BY MR. DINH:
Q Correct, that's the door into the solarium?
A That's the door, that's right, but wouldn't this be northeast? This is northeast.
Q No, it is northwest.
A I lived on the northwest corner. North, south --
MR. DINH: Off the record.

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(Discussion off the record.)
BY MR. DINH:
Q So that will be -- let me reorient. Off the record, I have written in my own pen the four orientations; that is the bottom of the diagram is north, the top of the diagram is south, and looking right side up, the left of the diagram is east and the right of the diagram is west. So that would be on the northwest corner -- I'm sorry, on the southwest corner of the room right adjacent to the doorway at this time at this northwest wall of the solarium, right adjacent to the door on the right-hand side as you enter; correct?
A Correct.
Q And I understand that that room is also used for meals at times?
A That's right.
Q And is the dining room table more toward the south side of the room?
A It is more toward the southeast side of the room.
Q Were there couches or something like that

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that formed the TV viewing suite?
A There are two, yes.
Q So it is used also as the TV viewing room and also the informal dining area for the third floor?
A Yes.
Q Do you recall taking dinner in the sun room that day?
A No.
Q So you went into the sun room; at approximately what time was that?
A I don't recall.
Q Do you remember what show you watched when you first came in the room?
A No, I do not.
Q Did you at some point indeed watch the Larry King Live show --
A Yes.
Q -- that night?
Did you leave the sun room before the beginning of that program -- before the beginning of that program since you entered?

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A No.
Q You entered and you do not recall what time it was or what show it was, but you stayed in the TV room until the beginning of the Larry King Live show?
A That's right.
Q Do you recall approximately what time the Larry King Live show went on that night?
A 9:00.
Q Did you watch the show until the end?
A Yes, I did.
Q Did anybody come into the room and watch the show with you?
A No.
Q You were alone in the room at all times?
A Yes.
Q And I take it you remember because that was the night that President Clinton had made an appearance on the Larry King Live show?
A That's right.
Q Did you remain in the TV room at the conclusion of the Larry King Live show?
A Yes.

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Q For how long, do you know?
A I don't recall.
Q You don't recall. 10 minutes, 15 minutes?
A I don't recall.
Q Did somebody come in to the solarium after the Larry King Live show ended?
A Yes.
Q Who was the first person to come into the solarium?
A The first person I remember coming into the solarium was John Fanning, F-a-n-n-i-n-g, the doorman.
Q And do you recall approximately how long after the conclusion of the Larry King Live show this was?
A No, I am not even sure that it was not before the conclusion.
Q But it is -- but are you sure that it was after the start of the Larry King Live show?
A Absolutely.
Q Was anybody with Mr. Fanning?
A No.

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Q Did Mr. Fanning say anything to you?
A Yes, he did.
Q What did he say?
A He told me that Vince Foster's body had been found.
Q Did he tell you anything else?
A He told me that -- that he had committed suicide.
Q "He" being Vince Foster?
A Yes.
Q Did he tell you where the body had been found?
A No.
Q Did he tell you when the body had been found?
A No.
Q Did he tell you how he came to gain that information?
A No.
Q Did you ask him?
A No.
MR. PORTNOY: I am going to object now, and

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make clear on the record that it has been the position of the Minority consistently that this area of inquiry, concerning the details of Mr. Foster's death exceeds the Committee's authority under the Resolution and is outside the scope of proper questioning.

I would ask Mr. Dinh to state for the record the Majority's theory as to why this line of questioning is within the scope of the Resolution.

MR. DINH: Right. My goal, and I believe it is consistent with the view of the majority of the members on the Committee, is that Section 1(b)(1) of Senate Resolution 120 authorizes the investigation into the handling of papers in the office of Vincent Foster at the time of his death. Part of the -- part of that inquiry is to determine the precise point at which the White House was advised of the news of Mr. Foster's death, and therefore, establishing the proper parameters as to when and -- when and what and how the documents in Mr. Foster's office at the time of his death were handled by the White House officials.

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MR. PORTNOY: Then for the record, we have now established the time and manner in which Ms. Dickey learned of Mr. Foster's death. And based on the explanation you have just given, that ought to exhaust the inquiry of this witness.

MR. DINH: I very much appreciate your opinion on that, Mr. Portnoy. I do think it is within my prerogative to probe further in order to see whether I can further refresh Ms. Dickey's recollection or indeed to be satisfied that her recollection is consistent with other testimony and other evidence, so I would ask you for your indulgence.

MR. TISDALE: If I can add something. If you want to set a foundation by asking her if she had anything to do with any of the documents in Mr. Foster's office or saw any of them, I mean that may shortcut a whole lot of what you are trying to do.

And I think that's clearly the only basis on which you ought to proceed with continuing to ask her about what went on.

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MR. DINH: As I explained earlier, I do not have any independent knowledge or need to establish the foundation; rather whether Ms. Dickey was personally involved in the handling of the papers. We do know that other White House officials were involved in the handling, and as such, I would like to establish when any person in the White House had information relevant to Mr. Foster's death, and Ms. Dickey's testimony is relevant to that.

MR. TISDALE: As I say, if you want to ask her if she knows of anybody that had anything to do with those papers, I am sure she would be glad to tell you.

MR. PORTNOY: If the Majority chooses not to ask that question --

MR. DINH: Right. I certainly will ask that question when the time comes, but like I said, it would not forestall any other line of questioning.

BY MR. DINH:

Q Mr. Fanning came into the sun room, the solarium where you were watching the show. After he

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notified you of the news of Mr. Foster's death, did you have a subsequent conversation with him? Did you talk to him; did you engage him in conversation?
A No.
Q What did you do?
A I fell apart.
Q You fell apart. By that, did you mean you left the sun room?
A Yes, I did.
Q Did Mr. Fanning remain in the sun room?
A I don't know.
Q And I know that this is -- at that point the news may be a shock to you, and so -- but let me just ask you, what do you remember next doing?
A I went down to the second floor.
Q Do you recall which stairway or elevator you took in order to go down to the second floor?
A No, I don't.
Q You went down to the second floor. Did you see anybody on the second floor?
A I saw one of the butlers.
Q Do you remember what the butler's name is?

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MR. PORTNOY: Can we clarify, you went down to the second floor of the residence.
THE WITNESS: Yes, I did. Ricardo was his name.
BY MR. DINH:
Q Ricardo. This would be Ricardo S-a-n-v-i-c-t-o-r-e-s?
A Yes.
Q Did you say anything to Mr. Sanvictores?
A Yes, I did.
Q What did you say to him?
A He asked me what was wrong and I told him Vince Foster had killed himself.
Q Did he know that prior to you telling him?
A No.
Q Did you have a subsequent conversation with him at this point?
A No.
Q What was his reaction to the news?
A He was shocked.
Q He was shocked. Okay. Did you see anybody else on the second floor while you were there?

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A No.
Q What did you do then?
A I called my mother.
Q You called your mother from the second floor?
A From the kitchen, second floor kitchen.
(Discussion off the record.)
MR. DINH: Back on the record. Let me place in front of you now what I will ask the stenographer to label as Dickey Exhibit 2.
(Dickey Exhibit 2 identified.)
BY MR. DINH:
Q Let me represent to you that this is a historical sketch of approximately -- exactly the same vintage of the earlier sketch which we had explored that was Dickey 1. Dickey 1 was the third floor of the White House; this is the second floor plan of the White House. Again this is a little bit dated. It dates back to the Truman Administration, but as you can see, the orientation is the same: north is toward the bottom, south is toward the top, and -- does this look roughly familiar to you?

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A Yes.
Q Can you tell me which room is the kitchen?
A 217.
Q 217. Can you go ahead and put an X --
A And circle it?
Q Yes.
A (Witness complied.)
Q Was there more than one phone in room 217?
A No.
Q Do you remember approximately where was that phone located?
A Next to the door.
Q Next to the door; go ahead and put --
A On the -- where was that?
MR. PORTNOY: That would be the east wall.
BY MR. DINH:
Q On the east wall, place a small X without a circle there.
A (Witness complied.)
Q And that was the phone with which you called your mother, Mrs. Dickey?
A Yes.

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Q Was she in Little Rock at the time?
A No, she was in Falls Church.
Q In Falls Church. Was she the first person you contacted on the telephone that night?
A Yes.
Q Just so I get a better handle on the time frame, you stated that, upon learning the news of Mr. Foster's death, you walked down to the second floor, and then on the way, you saw Mr. Sanvictores?
A I went into the kitchen and Ricardo was in the dining room at the kitchen door so I didn't have to walk around.
Q You didn't have to walk around, it was just on your way to the kitchen?
A That's right.
Q Did you go to the kitchen expressly to use the phone?
A No, I went to the kitchen to find the President.
Q To find the President, and you ran into Mr. Sanvictores and you told him that Mr. Foster had passed away?

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A That's right.
Q And you testified you didn't have a conversation or discussion with respect to that news?
A That's right.
Q So it was a fairly direct path -- how long do you estimate that to take from the solarium to the kitchen?
A 30 seconds to a minute.
Q 30 seconds to a minute. And allowing for half a minute for your conversation with Mr. Sanvictores, you would say within five minutes you were in the kitchen?
A Yes.
Q How long did you talk to your mother for?
A Two or three minutes.
Q Was the substance of the conversation the news that Mr. Foster had passed away?
A Yes, it was.
Q Did you talk about anything else?
A No.
Q Did you call anybody else that night?
A I called my father.

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Q Immediately after calling your mother?
A Yes.
Q And where was he living at the time?
A Atlanta, Georgia.
Q And how long were you on the phone with your father?
A Two to three minutes.
Q The same thing, the substance being Mr. Foster's death?
A Yes.
Q I take it they had both met Mr. Foster before?
A Very close.
Q Very close. Did they both previously live in Little Rock?
A My mother and my father?
Q Yes.
A Yes.
Q Did you call anybody else after talking to your father?
A Not immediately after, no.
Q What did you do immediately after hanging

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up with your father?
A To the best of my recollection, I went back up to the third floor.
Q Where did you go on the third floor?
A I don't know.
Q Did you go to your room?
A I don't know.
Q Did you go back to the solarium?
A I don't know.
Q What is the next thing that you remember?
A The next thing I remember is I went back down to the third -- to the second floor kitchen.
Q Do you know approximately how long you stayed on the third floor?
A No, I don't.
Q And you stated you had gone to the second floor kitchen in order to find the President?
A Yes.
Q Was this return trip to the kitchen for the same purpose?
A Yes.
Q Did you indeed find the President there the

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second time?
A Yes, I did.
Q I take it the first time you did not see the President?
A That's right.
Q Did the President give you the news of Mr. Foster's death or did you advise him of the news?
A He knew.
Q He knew?
A Yes.
Q You told him, he said he knew or he --
A I asked him, I asked him what happened, I knew he knew and I asked him what happened.
Q And what did he say?
A He told me that he had -- that Vince Foster had shot himself in a park.
Q And of course, the President was a guest on the Larry King Live show so by this time the show would have been over?
A That's right.
Q Is that a logical conclusion?
A That's right.

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MR. PORTNOY: Can I ask a clarifying question?
MR. DINH: Sure.
MR. PORTNOY: Do you know where the show was filmed, where Mr. Clinton was when it was filmed?
THE WITNESS: Yes, I do.
MR. PORTNOY: Was he in the White House?
THE WITNESS: Yes.
BY MR. DINH:
Q Was anybody in the kitchen when you came in, besides the President?
A Yes.
Q Who else?
A George Stephanopoulos was there.
Q Anybody else?
A Mack McLarty and Mark Gearan, G-e-a-r-a-n.
Q Approximately how long did your conversation with the President last?
A Two minutes.
Q Did you say anything other -- did you say hi to Mr. Stephanopoulos?

A No, I did not.
Q Did you talk to Mr. McLarty?
A No, I didn't.
Q Mr. Gearan?
A No.
Q Did you remain in the room after you talked to the President?
A No.
MR. TISDALE: I don't want to tell her not to answer, but I mean, so far you have determined when she found out. You've determined when -- approximately when the President found out. You know, if we are going to get to the documents, I mean -- or whether she saw them or whether anybody -- whether she saw anybody with them, I hope we can do that soon.
BY MR. DINH:
Q What did you do after you left the kitchen after your two- or three-minute conversation with the President?
A I went back up to the third floor.
Q Do you recall where on the third floor?

A The third floor hallway.
Q And did you at that time make a call to somebody?
A Yes, I did.
Q To whom did you make the call?
A There were three phone calls that I made and I don't remember who came first; I know who came last.
Q Okay. Can you give me all three?
A Yes; Ann Stock, Ann McCoy, and the governor's mansion.
Q The governor's mansion in Arkansas?
A Yes.
Q And did you make all three of these phone calls from the same phone?
A Yes, I did.
Q And you stated it was in the White House, in the hallway of the third floor of the White House?
A That's right.
Q Can you take your pen and mark on Dickey Exhibit 1, which is the earlier sketch of the third floor of the White House, approximately where this

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phone was located?
A (Witness complied.)
Q Was this a phone that you regularly used?
A Not regularly, but I did use it.
Q Do you know what the extension of the phone is?
A No, I don't. It's been changed. They've updated the phones since that time.
Q And who did you reach when you called the governor's mansion in Arkansas?
MR. PORTNOY: If we could go back a step, the witness testified she was only partially sure of the order of the calls. She didn't know which two calls were first but she knew which was third. Can we establish that?
BY MR. DINH:
Q The call to the governor's mansion, was that the last call that you made?
A That was the last call.
Q You did not recall which Ann you called first?
A Right.

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Q But you called the two Anns, Ms. Stock and Ms. McCoy, and then you called the governor's mansion?
A That's right.
Q Do you recall approximately how long your conversation with Ms. Stock was?
A No more than five minutes.
Q How long was your conversation with Ms. McCoy?
A The same.
Q Who did you reach when you called the governor's mansion?
A Roger Perry.
Q Who is Roger Perry, to the best of your knowledge?
A He is a state trooper.
Q Did you know Mr. Perry prior to this -- prior to the night of July 20, 1993?
A Yes.
Q I take it from your earlier experience in the governor's mansion?
A That's right.

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Q Did you call to the governor's mansion to talk to Mr. Perry?

A No.

MR. PORTNOY: I would think at this point I would like the record to reflect Mr. Perry was scheduled to be deposed by the Committee, and at the request of his counsel, his deposition was canceled after the Committee requested telephone records and work records that would either confirm or not confirm his version of events.

MR. DINH: Since I was the person dealing directly with counsel at the time, and with Lance Cole and other Minority counsel, at the time there was no deposition scheduled. And we were engaging in conversations with counsel at that time with some tentative dates.

And upon learning that we would like to pursue the telephone record, indeed counsel expressed that it may be advisable, since the records would be able to speak for themselves, that we hold off with the deposition until then.

We have been unable, unfortunately, to get

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any telephone records either from the governor's mansion or from the White House that would show with any specificity any calls made to or from the White House to or from the governor's mansion, and so we are where we were six months ago.

MR. PORTNOY: I would like to correct one statement. Or perhaps "correct" is the wrong word.

MR. DINH: Clarify?

MR. PORTNOY: Clarify. According to a memorandum dated October 2, 1995, from Bob Giuffra, Lou Gicale and Alice Fisher, Majority staff, to Neal Kravitz and Lance Cole of the Minority staff, the troopers were scheduled to be deposed 9:30 a.m. on October 10th, so at least to the best of your knowledge, they were in fact scheduled to be deposed, and the deposition subsequently canceled.

It may be that Mr. Dinh has a more precise recollection of the events, but speaking from the documents, there was a deposition scheduled.

MR. DINH: I think this may be a case where we may both be right. That schedule that you were reading reflecting the October 2, 1994 memorandum was

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prior to the practice of the Committee to place the confirm or nonconfirm designation on the particular listings.

See, at that time, the quote, unquote scheduled deposition was only simply a suggestion on -- a tentative suggestion as to the proper date and time when we could do so, if indeed we decided to proceed. But thank you very much, Mr. Portnoy.

MR. PORTNOY: A last clarification if I may, is it correct to say the Majority has not received work schedules from the troopers either?

MR. DINH: Off the record on this.

(Discussion off the record.)

MR. DINH: Back on the record. While we were off the record, Minority and Majority counsel had a brief discussion regarding the work schedule of the troopers at the governor's mansion for the night of July 20, 1993, and we will pursue it after the deposition.

BY MR. DINH:

Q Approximately how long did you talk to Officer Perry?

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A Two or three minutes.

Q What did you say to him?

A I -- I called just to let you know that Vince Foster has committed suicide. I just wanted you all to know before you heard it on the news.

Q Did they knew Mr. Foster?

A Yes.

Q Did he ask you any questions?

A I don't remember.

Q Did you tell him that -- did you tell Trooper Perry that Mr. Foster had gotten off work and had gone out to his car in the parking lot and had shot himself in the head?

A Absolutely not.

MR. TISDALE: If you've got something that might refresh her memory about what she did say, you might want to show it to her and see if it does any good.

BY MR. DINH:

Q Did you tell Trooper Perry that Mr. Foster's body had been found in a park?

A I do recall saying that.

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Q Did you talk to anybody else at the governor's mansion?
A No, I did not.
Q Did Officer Perry say anything to you that you can recall?
A He showed signs of being shocked and being very sad.
Q Did you tell him to go tell -- do you know the then-Governor Jim Guy Tucker?
A No, I don't.
Q But you knew of other persons in the governor's mansion?
A I'm sorry?
Q Did you know other persons besides Trooper Perry in the governor's mansion?
A No, I did not. I spent a lot of time out with the guards and I just was calling to let them know. And I think I remember saying, you know, something to the effect of, you might want to let the -- I don't know if you want to let the governor know, but --
Q Did you tell him to tell the other guards,

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who you also may have known?
A No.
Q But you definitely did not tell him that Mr. Foster had shot himself in the parking lot?
A Absolutely not.
Q And you are sure because that is contrary to the facts as you knew it then?
A That's right.
Q Is that contrary to the facts as you know it now?
A That's right.
Q At any time -- did at any time -- at any time did you have any information that would have led you to conclude that Mr. Foster had committed suicide in the parking lot?
A No.
MR. PORTNOY: Once again, I would like the record to reflect the Minority's view that the location in which Mr. Foster's body was found is outside the scope of the Resolution and does not reasonably pertain to a discussion about the handling of documents that may or may not have been in

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Mr. Foster's office at the time of his death.
BY MR. DINH:
Q Let me just back up a little bit, and I think I might have asked you this question, but just to cover my own tracks, did Mr. Fanning tell you how he came to learn of Mr. Foster's death?
A No.
Q Did you have subsequent conversations with Mr. Fanning, that is after the night of July 20, 1993, regarding Mr. Foster's death?
A Yes.
Q Did he subsequently tell you where he learned that information?
A I don't remember.
Q You don't remember. What was your -- when did you next talk to Mr. Fanning regarding Mr. Foster's death?
A I don't remember.
Q Was it that week?
A I don't remember.
Q Same year?
A I don't remember.

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Q Do you recall the substance of the conversation?
A The only conversation -- the only substance of any conversation that had to do with it, that I remember, had to do with, John has this way of kind of having a smirk on his face and he had that kind of look on his face when he told me. And it was kind of a halfway smile and it was because he felt really bad about having to tell me.
Q Right.
A And when he told me, he had that look on his face and I said, you know, it is not funny, John, and he said I am being serious.
Q This is at the time when you were in the sun room?
A That's right.
Q And then you had a subsequent conversation?
A So we talked about it later, and he said that was because I really felt bad about telling you. And that's the only conversation I remember having.
Q Because he knew that you were very close to

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Mr. Foster?
A That's right.
Q Incidentally, do you remember what the phone number was at the governor's mansion that you dialed?
A I went through the operator.
Q You went through the operator, you went through the White House operator?
A That's right.
Q So you picked up the phone and you pressed zero, is that how you get the operator?
A Right.
Q You get the White House switchboard and then you gave the operator a number to call?
A I first called Ann Stock and Ann McCoy whose numbers I did not know, which is why I used the White House operator.
Q You used the White House operator and said connect with me with Ann Stock?
A That's right.
Q They would dial the number, they would look up in their directory because they have the numbers

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of all the White House employees; I take it?
A That's right. That's right.
MR. TISDALE: Let him finish his question before you answer.
MR. PORTNOY: Off the record.
(Discussion off the record.)
MR. DINH: Can you read me the last exchanges, please, just the question and answer.
(The reporter read the record as requested.)
MR. DINH: Back on the record.
BY MR. DINH:
Q Now, with respect to the third phone call, the phone call to the governor's mansion, did you follow the same procedure?
A Yes, I did.
Q You pressed zero and got the White House operator?
A Yes, I did.
Q What did you tell the White House operator?
A I don't remember.
Q Did you say I want the governor's mansion in Arkansas?

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A I don't remember.
Q Did you give them a specific number to dial?
A I don't remember.
Q Did you know at that time the number of the governor's mansion?
A Yes, I did.
Q Can you give me that number now?
A 501-376-6884.
MR. TISDALE: For clarification, I am not sure that that is still the number now. The state offices have gone on a different telephone system and most of the prefixes are 682 but I don't know for a fact whether the governor's mansion has changed or not.
MR. DINH: Thank you very much for that, Mr. Tisdale.
BY MR. DINH:
Q And is that the main number for the governor's mansion?
A Yes, it is.
Q And that would be the number that you call,

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that you personally would call or would you have other extensions that you would call?
A No, that would be the number.
Q That would be the main number and then you would ask to speak to whomever, or you would speak to whomever picks up the phone?
A That's right.
Q On this particular night, it was Officer Perry who first picked up the phone?
A That's right.
Q You didn't go through an operator on the other end?
A That's right.
MR. TISDALE: Again for clarification, Arkansas is a poor state and the state trooper is the operator. The phone rings in the guard shack.
MR. DINH: It is not limited to the state of Arkansas. I must tell you the Supreme Court has the same practice on the weekends and at night.
BY MR. DINH:
Q Let me move your attention away from the evening of July 20th and ask you more generally to

focus on the week of July 20th through July 27th, 1993, that is the Tuesday to Tuesday after Mr. Foster's death.

During this time, did you have any conversations with anyone in the White House regarding the handling of papers in Mr. Foster's office?

A No.

Q When did you first talk to the First Lady regarding Mr. Foster's death?

A I don't remember.

Q Did you call her while she was in Little Rock?

A No, I did not.

Q You did not. So it would have been after she came back on the Saturday after Mr. Foster's death?

A It was after the funeral.

Q It was after the funeral, and you recall the conversation as being in person?

A I don't recall the conversation at all. I just know I didn't speak to her until after the

funeral.

Q You don't recall any specific conversation with the First Lady?

A No.

Q But you probably would have had one?

A I don't recall.

Q Do you know Maggie Williams?

A Yes, I do.

Q Did you have a conversation with Ms. Williams regarding the death of Mr. Foster?

A Not that I remember.

Q Again, just for clarification, it could have happened, you simply don't remember it, or likely it would not have happened?

A I don't think it happened.

MR. PORTNOY: These questions are for the time period of July 20 through July 27; is that correct.

MR. DINH: Yes, that's correct. Thank you very much, Jim.

BY MR. DINH:

Q Do you know who Susan Thomases is?

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A I do.
Q Did you have any conversations with her regarding the death of Mr. Foster?
A No.
Q Again, focusing your attention between the period -- to the period between July 20 and July 27, did you happen to see Diane Blair in the White House residence?
A I don't recall.
Q And I take it you don't recall talking to her about Mr. Foster's death?
A I don't recall.
Q Were you involved in any actual review of any files that you understand to have been from Mr. Foster's office in the period from July 20th to July 27, 1993?
A No.
Q Did there come a time when you learned that a note had been discovered in Mr. Foster's handwriting?
A Yes.
Q Approximately when was that?

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A I don't have any idea.
Q How did you learn of that fact?
A From the media.
Q You didn't have any conversation with anybody in the White House who gave you that information?
A No.
Q Did you have any subsequent conversations with anybody in the White House regarding the note that was discovered in Mr. Foster's handwriting?
A I don't recall.
Q Do you recall any conversation with Mrs. Clinton on that subject?
A I don't recall.
Q With Ms. Williams?
A I don't recall.
Q Let me direct your attention now to Tuesday, July 27, 1993, which is exactly one week after Mr. Foster's death. Do you recall whether you were at work that day?
A I don't recall.
Q It was a Tuesday.

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A I would assume that I would be.
Q You would assume. And again, you would come in -- do you recall when you came back from work?
A No.
Q When you came back from work, and going to the White House residence, do you recall seeing anybody, that is like besides the Secret Service officer and ushers?
A I don't have any idea. That day was like any other day.
Q Did you see Mr. Nussbaum?
A I don't have any idea.
Q Did you see Mr. Nussbaum on a regular basis?
A Not on a regular basis, no.
Q And I take it you didn't see the Attorney General, Janet Reno, that day?
A Not that I recall.
Q That would have stuck out in your mind?
A I saw her several times but I have no idea if it was July 27.

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Q Do you recall if you were -- during the day now, specifically focusing on the afternoon of July 27th, 1993, do you recall whether you were in the White House residence at that time?
A I don't have any idea.
Q You don't have any idea. Thank you.
Do you recall seeing Ms. Susan Thomases any time that week; that is, July 20 through July 27, 1993?
A I don't have any idea.
Q Did you see Ms. Thomases around the White House often?
A Not often.
Q Not often. Do you know who Mr. Robert Barnett is?
A Yes.
Q Do you see him around the White House often?
A No, not often.
Q Do you recall whether one of the times when you saw him --
MR. TISDALE: Can I ask a question. You

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are not talking about now, are you?
BY MR. DINH:
Q No. July 20th through July 27th, 1993.
A I don't remember.
Q You don't remember if that was one of the times you saw him in the residence?
A No, I don't remember.
Q Let me direct your attention now to a more recent period, that is last year, and specifically to the period between mid-July 1995 through mid-August 1995. And if you will recall, August 15th is when the First Lady and First Family went on vacation.
A That's right. Yes.
Q You testified August 17 was your last day at the White House?
A That's right.
Q So it was approximately two days after the First Family left for vacation?
A That's right.
Q So for the period of the month before you left the White House, so that places it more on your own personal calendar, I take it that at this time

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you were no longer living in the White House residence?
A That's right.
Q Did you have occasion to come to the White House residence on a regular basis, however?
A During that time?
Q Yes.
A Yes.
Q For what reason were you in the White House residence?
A I was helping Mrs. Clinton to type her book.
Q And this book would be "It Takes a Village"?
A Yes.
MR. TISDALE: Just to educate me, I take it now we have moved to the items under 1(b)(3)? I didn't want to get lost.
MR. DINH: I must say I am impressed that you are following along in the Resolution.
MR. TISDALE: I don't know much about it. I have to see what I am doing.

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BY MR. DINH:
Q Do you recall approximately how often you would be in the residence during this period of time? Was it like every day?
A By the end, by the middle of August, it was every day.
Q Okay.
A At the very -- in the middle of July, I don't recall if it was every day, it was probably at least every other day.
Q And let me direct your attention now back to Dickey Exhibit 1 which again, to remind you, is the schematic of the third floor of the White House residence. And let me direct your attention to the upper southwest corner of that diagram, that the upper top left of that diagram.
And I have highlighted for your benefit several rooms there; I have highlighted room 323, I have highlighted room 319A, 319, and then 320 through 322. Let me represent to you that we have -- we understand that room 319A is what's commonly referred to as the book room.

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And room 319 --
MR. TISDALE: Just a minute, you can't just nod your head. You have to say something so she can get it.
THE WITNESS: I didn't think I was answering a question.
MR. TISDALE: All right.
BY MR. DINH:
Q And room 319 is a closet that we understand to be containing table linen. And since this is an old schematic, as I told you before it dates back to the Truman Administration, I believe, that we understand that the suite of rooms that is represented here as rooms 320, 321 and 322 are simply one room, the walls between those three rooms have been removed. And that is -- that entire suite reflected in the upper left-hand corner of your diagram, the southwest corner of the third floor, is what is now the exercise room?
MR. PORTNOY: That's the upper right-hand corner of the diagram?
MR. DINH: I'm sorry, upper right-hand

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corner. I am just dyslexic, among other faults.
BY MR. DINH:
Q And do you generally recall the layout of these rooms as they are represented here on the diagram?
A Yes.
Q Can you tell me what -- who used room 323 during July and August of 1995?
A Who used it?
Q Yes, I understand that's an office.
A It is Mrs. Clinton's office.
Q It is Mrs. Clinton's office. Was she in there working on the book at this time?
A Yes.
Q Were the people who were helping her with the book, that is Barbara Feinman was working in the office at the time?
A Yes.
Q Where were you working at the time, Mrs. Dickey?
A Also room 323.
Q Were you at the same desk as Mrs. Clinton?

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A No.
Q Were you at the same desk as Ms. Feinman?
A Mrs. Fein -- Ms. Feinman and I were not normally in the room at the same time. If we were, we were not -- we were using two separate computers.
Q You were using two separate computers. She had a computer on her desk?
A She brought a laptop.
Q And you had a permanent computer that was there in the room?
A That's right.
Q So there are three desks in the room?
A No, there are two desks in the room.
Q There are two desks in the room. What happens when you and Ms. Feinman were both there at the same time?
A One of us would type on the couch, on our lap.
Q If I can ask you to take my pen here, and it's a red pen, if you can draw in for me your approximation as to your recollection as to where the two desks are, and mark the desk that Mrs. Clinton

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used as A.
A Do you want me to draw the desks?
Q Yes. Draw a box as to where you recollect they are or they were in July and August of 1993.
A (Witness complied.)
That's Mrs. Clinton's desk.
Q You can mark that with the letter A.
A (Witness complied.)
Q And can you draw the other desk?
A (Witness complied.)
And that's B.
Q Thank you. That was not against the wall?
A No.
MR. TISDALE: That's B you are talking about.
MR. DINH: Yes, I'm sorry.
BY MR. DINH:
Q Were there chairs on either side of that oval desk B?
A No.
Q There was just one chair on one side?
A On one side. There was also a chair on the

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end here.
Q "On the end" being the north end?
A Just a sitting chair. It wasn't a working chair.
Q And is the -- where is the computer that you would use to type Mrs. Clinton's book located?
A In the middle of the desk on the east side.
MR. TISDALE: Which desk?
BY MR. DINH:
Q Of the B desk?
A Of the B desk.
Q And I see you placed an asterisk on the diagram reflecting where the computer was?
A That's right.
Q Was this the same table that Ms. Feinman would use from time to time --
A From time to time.
Q -- with you when you were both there, then one of you would be using the laptop on the couch?
A That's right.
Q During this relevant period of time, that is from July 15 through August 15, 1995, did you work

at all in the book room, that is room 319A on the diagram in front of you?
A No.
Q Did you have occasion to come into the book room?
A Not during that period of time.
Q In July and August of 1995?
A No.
Q Did you ever enter the book room in July and August 1995?
A No.
Q You had not used the computer in room 319A, for example, to type -- to help with the typing?
A I didn't know there was a computer in 319A.
Q I guess that pretty much answered the question.
A That's a no.
Q Stepping outside of this July and August 1995 time period, can you tell me when the last time was that you recall entering the book room?
A No.
Q You don't. When you were a resident in the

White House, when you were living in room 301 and 302, did you have occasion to come into the book room?
A Yes.
Q For what reason?
A Most of the time it would be to go to the exercise room.
Q To go to the exercise room, which, the entrance to which is from the book room?
A That's right.
Q Is that where my pen is right now indicating door number 355?
A Yes.
Q Other than using it as a bypass to the exercise room, did you have other reason to come into the book room?
A Yes.
Q What is that?
A When we first moved into the White House in January and February of 1993, I had helped to catalogue all of the Clintons' videos, and I had catalogued them at the governor's mansion. And so I

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was responsible for getting them in the right place once we moved in.
Q Okay. And I take it those videos are in the book room?
A Some of them.
Q Some of them. And you said this project lasted from January and February of 1993?
A Yes.
Q Did you subsequently come into the book room for any other reason, other than bypassing -- using it as a bypass to the exercise room?
A Only if Capricia Marshall was in there for some reason and I needed to talk to her.
MR. TISDALE: Can I ask -- make a clarification.
MR. DINH: Sure.
MR. TISDALE: You talk about a bypass to the exercise room. It looks like it is the only entrance from that book room.
THE WITNESS: You can go through the hallway.
MR. DINH: Using the book room as a bypass

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in order to --
MR. TISDALE: As a passageway?
MR. DINH: As a passageway.
MR. TISDALE: I didn't know that.
THE WITNESS: You have to go through the book room to get there either way.
MR. DINH: I didn't mean bypass, I meant pass through. Immigrant English.
MR. TISDALE: I had not seen that.
BY MR. DINH:
Q I take it you would enter where my pen is now, which is door 342?
A Yes.
Q You walk two or three steps to get to the exercise room?
A That's right.
Q Did you come in there to borrow videos or anything like that?
A Maybe once or twice.
Q Once or twice, this is while you were at the residence?
A That's right.

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Q Which of course ended in November of 1994?
A That's right.
Q Do you recall any occasion that you entered the book room after November of 1994?
A I don't remember.
Q Could it have happened but you just don't remember, or do you think that likely --
A More than likely it did not happen.
Q More than likely it did not happen, but you are certain you did not enter in July and August of last year?
A I am certain of that.
Q Did you have any -- do you remember whether you entered that room after you left the White House; that is, after August 17, 1995?
A No, I did not enter it.
Q Incidentally, have you been back to the White House residence since August 17, 1995?
A One time.
Q When was that?
A October of '95.
Q And you stated that during this period,

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that is at the end of July and beginning of August, you were helping to type Mrs. Clinton's book?
A That's right.
Q And that was your reason for coming into the White House residence during this relevant period?
A That's right.
Q Was there any other reason why you would have gone to the White House residence?
A To visit Chelsea.
Q Any other reason?
A Not that I recall.
Q What I am going to do now, Ms. Dickey, is show you a series of records that I understand has been kept by either the Secret Service or the White House ushers office, of entries and exits into the White House residence. And I do so in the hope that if you have any recollection as to your specific reason for being in the White House residence at these particular times, that I may elicit that recollection.
A Okay.

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Q Let me start first with what is labeled as Exhibit S 020053, and it is labeled "F-1 movement log" for Sunday, July 23, 1995. And let me just explain to you that these were produced to us with the representation that they are the records kept by the United States Secret Service at the F-1 post, which is located right outside the elevator on the ground floor.

A That's right.

Q Do you remember that Secret Service post?

A Yes.

Q Usually, I take it, when you pass that post, the Secret Service officer would not stop you and ask you who you are?

A That's right.

Q He or she would know who you are?

A That's right.

Q Okay. And the record -- if I can direct your attention to the last line of that record, it indicates that Helen Dickey went up at 1344 -- that's military time for 1:44 p.m. -- to the third floor and down at 1915, which is 7:15 p.m.

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A That's right.

Q Do you remember this entry specifically?

A No.

Q Would this have been -- actually, back up. When you were doing the typing for Mrs. Clinton at what time of day were you doing that?

A It depended on if it was a weekday or weekend.

Q If it was a weekday, was it generally at night?

A Yes.

Q Because you would be working in your position as a database administrator during the day?

A That's right.

Q During the weekend, however, you would also do work during the day?

A That's right.

Q Is this entry and exit record consistent with your recollection that you may have been using this time to help Mrs. Clinton type her book?

A Yes.

Q That is, you would spend approximately six

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hours on a Sunday in order to help her type the book?
A That would be ordinary.
Q That would be ordinary, okay. And you don't recall any other reason for you being in the third floor at this time?
A No.
Q And I take it during that time, you went into room 323 in order to do your typing?
A That's right.
Q And you did not enter either the exercise room or the book room?
A That's right.
Q Let me show you now the same log but for a different day. And this record is labeled S 020048, and this is for Thursday, July 27, 1995. Let me direct you to the next to last line of the page I have placed in front of you, and that has the record that Helen Dickey went up at 1742, which is 5:42, and down 1850, which is 6:50, again to the third floor.
Is this consistent with an entry or exit for the purpose of typing Mrs. Clinton's book?
A Yes.

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Q Do you specifically recall this particular entry?
A No.
Q This would just be normal; after work, you would come over and help her out with an hour's worth of typing?
A Yes.
Q I take it you went to 323 to do this work on this day?
A That's right.
Q You did not enter 319A or the exercise room?
A That's right.
Q Let me direct your attention now to record S 3020045, and it is the same log for the very next day, Friday July 28, 1995. And again, if I can direct your attention to the next to last line of that record, it indicates that you entered at 11:52 in the morning and came down at 12:22. Do you remember this approximately half-hour entry and exit?
A No, I don't remember it.
Q Would you have any other reason to come

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into the White House on this particular day, Friday, July 28, 1995, other than visiting Chelsea or typing the book?

A No, it was for the book. Sometimes they had computer problems and they would call me up from work.

Q Okay. And you are somewhat of a computer expert?

A Well, I wouldn't say that.

MR. PORTNOY: The record should reflect that the log that the witness is looking at shows that Chelsea Clinton exited the residence at precisely the same time the witness did, so this also could be consistent with her testimony that she occasionally went to the residence to visit Chelsea Clinton.

BY MR. DINH:

Q Let me ask you this. Do you remember coming down to see Chelsea one day?

A I don't know if it was in that time period, but I know that we went to lunch one day before I left.

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Q Okay. But you don't specifically recall whether this was the time?

A I don't.

Q Do you recall approximately how long of a lunch it was?

A No.

Q Less than an hour, more than an hour?

A More than an hour.

Q And I take it you don't have any specific recollection of entering room 319A on this particular visit?

A That's right.

Q Or the exercise room?

A That's right.

Q Let me direct your attention now to the record labeled S 020041, same log for the following Monday, that is August 1, 1995.

And let me direct your attention to the second handwritten line on that record, and it marks that Ms. Helen Dickey came in 1720, that is 5:20 and left at 2200, which is 10:00, and the destination was the third floor. Do you recall this specific

instance when you entered?
A No, I don't.
Q Would it be consistent with an entry for the purpose of typing Mrs. Clinton's book?
A Yes.
Q That is you left work approximately 5:20 and then came up here in order to help her out for several hours, to type the book?
A That's right.
Q And again, you did this work in room 323?
A Yes.
Q Was there any reason that you can think of that you went into room 319A or the exercise room during this particular visit?
A No.
Q This is the next day, and -- the record I am referring to is S 020039, and I direct your attention to the sixth handwritten line on that record where I have my pen right here (indicating), and that indicates that Helen Dickey entered at 10:47 in the morning and left at 11:20, also that morning, an approximately 30-minute visit to the third floor.

Do you remember this particular entry?
A No. I don't.
Q You don't; okay. Approximately how many times during this period were you called to the White House on account of computer problems, if you can recall?
A I would guess once a week.
Q Once a week. Who would be having these problems with the computer so often?
A Barbara Feinman might have a problem, that -- it wasn't really a computer problem; it was -- she couldn't -- it was her own problem that she couldn't figure out the computer; it was not a computer -- the computer was not acting up.
Q More an instructional problem?
A More an instructional problem. There also might be an occasion where Barbara was not around, and Mrs. Clinton needed something typed very quickly.
Q I take it Mrs. Clinton did not use the computer herself?
A That's right.
MR. PORTNOY: Off the record.

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(Discussion off the record.)
MR. DINH: Back on the record.
BY MR. DINH:
Q Ms. Dickey, before we went off the record, I was showing you a log labeled S 020039 which you still have in front of you, which reflects the log for Tuesday, August 1, 1995. And we already explored the entry to which I was directing your attention, that is when you came in at 10:47 and 11:20.
I would like to focus your attention still to the same day and place another sheet of records before you, and this one is labeled S 020041.
A May I ask a question?
Q Yes.
A Why does one say Monday and one say Tuesday?
MR. PORTNOY: I was about to point that out.
MR. DINH: That is what I would like to explore with you.
BY MR. DINH:
Q This record reflects that it was -- the

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date is August 1st, 1995, however the day though that is handwritten above it is Monday instead of Tuesday. And let me direct -- keeping that in mind and this, of course, is marked page 2 of two. And keeping that in mind, let me direct your attention to the second handwritten entry on that record, where it records that Helen Dickey entered at 5:20 and exited at 10:00, again going to the third floor.
Do you recall whether you -- now that you have this in front of you, whether this sequence of entries and exits happened on the same day?
A I have no idea.
Q Do you recall on August 1, 1995, entering at approximately 5:20 and leaving at 10:00?
A No.
Q Would that be consistent with your practice of coming there after work and helping Mrs. Clinton type her book?
A Yes.
Q But you have no -- you have no specific recollection, as to this particular day, of coming into the White House and leaving and coming back

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later?
A Right.
MR. TISDALE: It might help if you could show her page 1 of the two there.
MR. DINH: Well, I actually believe that this was page 1, this being S 020039, because of the seemingly ambiguous labeling. One can never be sure, of course, but --
THE WITNESS: I would -- I don't know if I should say anything, but I would have to disagree with that, only because it doesn't go all the way to the bottom.
MR. DINH: Okay. Very observant. Thank you for pointing that out. You were pointing out S 020039 did not go to the bottom, that is the log was not filled in all the way to the end.
THE WITNESS: Yes. You showed me one earlier that was stapled together and it continued on the next page because all the lines had been used up.
MR. PORTNOY: Can we clarify whether you have any particular knowledge of the Secret Service recordkeeping procedures?

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THE WITNESS: No, I don't.
MR. PORTNOY: You are making an observation based on the face of the document rather than on any particular knowledge that you --
THE WITNESS: Based on the face of the document and the two-page document I was shown earlier, yes.
MR. PORTNOY: But the observation you made is based on the observation you have made of the document rather than any information you have about Secret Service procedures or practices?
THE WITNESS: That's right.
MR. TISDALE: It is possible that since S 020039 shows it is redacted, it may be the later entries were removed; I don't know.
BY MR. DINH:
Q Actually let me represent to you that August 1st is indeed a Tuesday, and not a Monday.
A Okay.
Q And that -- while that does not solve our ambiguity, it establishes a point of reference with respect to these two particular days.

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A Can I add another observation?
Q Sure.
A If this -- if I had gone up at 1047 and come down 1120, my name would have been on there and they would have added the additional times I went upstairs, and this shows a separate entry. That's another observation.
Q Again, that observation is based on the practice reflected by the records and not on any independent knowledge you have of what the Secret Service officers do?
A That observation is just from looking at these two sheets of paper.
MR. PORTNOY: That needs to be clear.
BY MR. DINH:
Q As a matter of fact, have you ever seen a log like this?
A Yes, I have.
Q Where have you seen them?
A At F-1.
Q At F-1, you see the Secret Service officers filling in a log like this?

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A I do. If they didn't see me downstairs, I made it a point to let them know when I came down sometimes.
MR. PORTNOY: These documents are entitled "F-1 movement log," so I take it F-1 is the desk or checkpoint.
THE WITNESS: It is the Secret Service post at the bottom of the elevator and stairs on the ground floor.
BY MR. DINH:
Q The reason why I wanted to be clear on that is that we have records indicating that on Tuesday, August 1st, you had lunch with one of Chelsea's friends. And let me show you that record, and this, let me represent to you, is kept by the ushers office, and I believe it is kept by the duty usher in the state floor duty officer desk, I believe they call that F-5. And this is the daily log of activities for the White House and for the First Family, in particular.
Let me direct your attention to the entry labeled 12:20, and it says "lunch for" -- has been

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redacted but substituted with "Chelsea and friend," and then the rest of the record reads Helen Dickey. Do you specifically recall this lunch with the friend of Chelsea?

A Yes, I do.

MR. PORTNOY: The Committee has agreed that friends of Chelsea Clinton visiting the residence need not be identified in the record and that's the purpose of the redaction. I will ask you not to state the name of that friend in the record, unless Mr. Dinh has a specific need to know, in order to protect the privacy of that child.

MR. DINH: And if I have a need to know, I will ask you the question.

MR. PORTNOY: Exactly.

BY MR. DINH:

Q You do recall this lunch?

A Yes, I do.

Q Does that help your recollection with respect to our semi-mystery here with respect to the two pages, ambiguous pages of F-1 movement logs?

A No.

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Q Do you recall whether you entered the White House earlier that day, prior to having lunch with Chelsea's friends?

A Earlier which day?

Q Earlier on August 1st, 1995, do you recall approximately when you arrived at the White House residence in order to have lunch with Chelsea's friend?

A No, it was around noon.

Q Did you leave after lunch?

A As far as I remember.

Q Did you come back that night in order to work some on Mrs. Clinton's book?

A I don't recall.

Q You don't recall. Let me direct your attention now to exhibit labeled S --

MR. TISDALE: There is no label.

BY MR. DINH:

Q S 020037. Actually I want to direct you to the prior page, S 020036, which reflects the log for Thursday, August 3, 1995. And if I can direct your attention to the seventh entry, seventh handwritten

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entry where it marks that Helen Dickey entered 11:00 and left at 12:45. Do you remember this particular entry and exit?

A No.

Q It was approximately two days after your lunch with Chelsea's friend?

A I don't remember it.

Q Do you recall getting a computer question from either Ms. Feinman or Mrs. Clinton on that day?

A No, I don't.

Q So you don't recall why you went to the White House that day?

A That's right.

Q Can you tell me whether you recall entering room 319A on that particular day?

A No, I did not.

Q You did not enter?

A No.

Q Or the exercise room during that period?

A No.

MR. PORTNOY: I believe the witness testified that, to the best of her recollection, she

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entered neither room 319A nor the exercise room at any time in July or August of 1995.

MR. DINH: Thank you very much, Mr. Portnoy. I am simply asking more specific questions in order to hopefully refresh Ms. Dickey's recollection of any specific instances where that may have happened, by going through the individual logs.

MR. PORTNOY: Off the record.

(Discussion off the record.)

BY MR. DINH:

Q Let me direct your attention now to document labeled S 020034, and direct your attention to the third handwritten entry on that day, and this is for Saturday, August 5, 1995. And it was marked Helen Dickey end, I believe it's a misspelling, entered 1050 and exited 1815 on this particular Saturday. Would this have been consistent with you doing work for Mrs. Clinton in the form of typing up her drafts for the books?

A Yes, it would be consistent.

Q Do you have any specific recollection of this particular weekend day?

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A No, I do not.
Q And I take it you did not enter 319A or the exercise room on that day?
A That's right.
Q Let me direct your attention now to the log for the very next day which is labeled S 020033, and on the fourth entry from the top where it is typed in Helen Dickey entering 1000 and leaving at 1246, coming back up at 1615 which is 4:15 and then leaving at 7:22. This is a more specific pattern of exits and entries on that Sunday.
Do you recall this particular day, where you came in for a couple of hours and then left, and then, later on in the afternoon, came back to the White House residence?
A Maybe. Maybe.
Q Okay. Do you recall generally what you -- what was the purpose of your two visits to the White House on that day?
A It was for typing.
Q It was for typing both times?
A Yes.

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Q And you did this typing in room 323?
A Yes.
Q And did you not enter room 319A or the exercise room during these two particular periods?
A That's right.
MR. PORTNOY: The record should also reflect that S 020021, which is the usher's log from Sunday August 6th, at least for the latter entry and exit shows at 4:20 p.m. Ms. Dickey went to the third floor computer room which would be, I believe, consistent with her recollection that she was typing.
THE WITNESS: That's right.
BY MR. DINH:
Q Do you know to what the usher was referring with the designation computer room?
A Yes.
Q Is that room 323?
A Yes.
Q Is that sometimes called the computer room?
A Yes.
Q Let me direct your attention now to the

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Thursday following that Sunday, Thursday of that week, which is August 10, 1995, and direct your attention to the next to last entry there, which shows that Helen Dickey entered at 1900 and exited at 2240, and her destination being the third floor (indicating). Again, do you recall this particular entry and exit?

A No.

Q You entered at 7:00 and you left around 10:40. Would this have been consistent with your typing work for Mrs. Clinton?

A Yes.

Q And I take it you did that work in room 323?

A That's right.

Q And you have no recollection of entering room 319A or the exercise room?

A That's right.

Q Let me refer you now to the Saturday of that week, Saturday August 12, 1995, and ask you to take a look at the White House usher's records, which I had -- a version of which I had shown you before.

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And this is the log for Saturday, August 12, 1995 and it is labeled S 020322. And at the -- if I can direct your attention to the entry at 12:10, Helen Dickey to the third floor and entry, 2:55, Helen Dickey down, which indicates you were on the third floor a little over 2-1/2 hours.

Do you recall this particular entry and exit?

A No, I don't.

Q Would it have been consistent with you doing typing work for Mrs. Clinton?

A Yes.

Q Because this was a Saturday, you would do it during the day?

A That's right.

Q And I take it during this particular visit you did not enter the room 319A or the exercise room?

A That's right.

Q Let me direct you back now to the F-1 movement log, that is a Secret Service movement log kept at F-1 station by the elevator, and ask you to -- this one is for Sunday, August 13, 1995, the

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very next day, and it is labeled S 020326, and ask you to look at the last entry there which indicates that Helen Dickey entered 1412, which is 12:12 in the afternoon, and left at 1722, which is 5:22, in the early evening. Do you recall this specifically?

A No.

Q Did you have any reason to go to the White House residence, to the second floor of the White House residence?

A I don't remember.

Q You don't remember. But these times would have been consistent with you typing -- performing some typing work for Mrs. Clinton?

A The times would be consistent, yes.

Q Did you ever perform any typing work for Mrs. Clinton on the second floor?

A Not for Mrs. Clinton; I did for Chelsea.

Q I'm sorry?

A I did for Chelsea. Not during this time period.

Q Not during this time period, okay.

MR. PORTNOY: Again, the record should

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reflect the usher's log differs slightly from the Secret Service log in that Ms. Dickey actually went to the third floor at 2:10 p.m. and came down at 5:20 p.m. so it may be that the Secret Service log is inaccurate in this respect.

BY MR. DINH:

Q You were going to say, Ms. Dickey?

A Sometimes the Secret Service -- the residence between the second and third floor --

Q Because there is no monitoring post between the second and third floor so entering the second floor would give you access to the third floor?

A Yes.

Q So for security purposes they were interchangeable?

A That's correct.

Q Let me direct your attention to a log labeled S 020325 and this was a log for August 14, 1995 -- to put in it context, it is the Monday prior to Mrs. Clinton leaving for Wyoming. Do you recall entering the residence on that night, the night before the First Family left for a vacation in

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Wyoming?
A No.
Q Let me direct your attention to the third handwritten entry from the bottom and that indicates that Helen Dickey entered 1700 and exited 1930, about 2-1/2 hours. Do you recall this particular entry?
A Maybe.
Q Did you help Chelsea pack?
A No.
Q When you say maybe, what were you talking about?
A I think that -- I think that that was the time that Barbara Feinman and I were making any final -- they knew that after the next day they were not going to see me again, so I was putting to bed all of the things that I needed to let Barbara know.
Q Okay.
A Putting everything on disks, everything off of the hard drive computer.
Q Right. Right. Did you not go with the First Family to Wyoming?
A I did not.

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Q But Ms. Feinman did?
A She did.
Q That's why you needed to hand off whatever work you were doing to Ms. Feinman?
A Yes, that's right.
Q Did Ms. Feinman leave before you did that night?
A I don't remember.
Q You don't recall. Does this record -- is this record consistent with your recollection of that event; that is, you were trying to save everything on disk for Ms. Feinman?
A Yes.
Q Do you recall whether did you anything else that night?
A I may have typed.
Q I mean besides the typing and the general work on the book.
A No.
Q You did not help Chelsea pack or did you not help the First Family pack, or anything like that?

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A No.
Q Do you recall whether during this particular night you entered 319A or the exercise room?
A No, I did not.
Q Do you know who Maryann D-e-l-a-r-i-v-e-s is?
A No.
Q Do you know who Steve Gordin is?
A No.
Q Do you know who Bill Knapp is?
A No.
Q Do you know who Ian McWilliams is?
A No.
Q Do you know who Tom Oaks is?
A No.
Q Do you know who Mark Paris is?
A No.
Q Do you know who Lisa Perez is?
A No.
Q Do you know who Billy Perry is?
A No.

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Q Do you know who April Springfield is?
A Yes.
Q Was she an intern in the social office with you at one point?
A She was an intern; I was not an intern. She was an intern.
Q She was an intern in the social office; I apologize.
A Yes.
Q Do you know when approximately she was an intern?
A My recollection is that she began in the summer of '94.
Q Okay. And did she -- did she stay in that post through August of 1995?
A As far as I remember.
Q Okay. Do you recall if she also helped Mrs. Clinton with any typing?
A Yes, she did.
Q Do you recall, was she ever there at the same time you were there helping Mrs. Clinton with the typing?

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A Yes.
Q When you were both there together, where would you work?
A One of us would have the laptop on our laps.
Q The laptop, this is Barbara Feinman's laptop?
A Mrs. Clinton also had a laptop so sometimes we had three of them going.
Q But at all these times you were working in room 323?
A Yes.
Q At any time did Ms. Springfield use the computer in room 319A to do the typing that you recall?
A I don't know.
Q You don't know or no, you don't?
A I don't know.
Q The times that you were there together with Ms. Springfield, did she ever use the computer in room 319A?
A I don't know.

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Q Do you know who Sheila Martinstone is?
A No.
Q Do you know who Elena Torika is?
A No.
Q Let me ask you to broaden your attention to the time period covering the entire time you were in the White House, that is from January 1993 through August 17 of last year. During this period, did you have any conversations with anyone in the White House regarding Whitewater Development Corporation?
A No.
Q Madison Guaranty Savings & Loan Association?
A No.
Q Did you have any conversations with anyone in the White House in January 1993 through August 195 about Capital Management Services?
A No.
Q About Seth Ward?
A No.
Q About David Hale?
A No.

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Q Have you ever handled any documents relating to the Rose Law Firm?
A Not that I know of.
Q Have you ever had any discussions with anyone in the White House relating to the Rose Law Firm?
A No, not that I know of.
Q Have you handled any documents that you know of that were the Rose Law Firm billing record?
A Not that I know of.
Q Did you have any discussions with anyone in the White House regarding the Rose Law Firm billing records?
A Not that I know of.
Q Let me direct your attention now to the stack of documents which I have in my hand and they are labeled DKSN 028928 through DKSN 029043. And let me describe them briefly to you before I ask you to study them. They are a sheaf of documents approximately one inch thick, measuring approximately 11 inches by 17 inches and they appear to be photocopies of computer printout, the top of it says

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Rose Law Firm client billing and payment history.
And going through, there are some other sheets in the stack of documents which have -- which are measuring 8-1/2 by 11 and some of these photocopies are color copies, and those indicate that there have been handwriting on them in red ink. And let me ask you to study those for a moment briefly.
MR. PORTNOY: The record should reflect at this point the documents Mr. Dinh has handed the witness are in fact the copy that was provided to the Committee by Mr. Kendall; is that correct?
MR. DINH: That is correct. These are actually the actual copy.
(Pause.)
BY MR. DINH:
Q Have you had a chance to study the records I've described to you earlier?
A Yes, I have.
Q Let me ask you, now that you have had a chance to study them, have you ever seen these records before?
A I don't remember ever seeing these records.

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Q Have you seen any records similar to this at the White House? And by similar, I mean a sheaf of paper, one inch thick, measuring approximately 11 by 17 inches.
A No.
Q You have never seen this in room 323?
A No.
Q Or on the few occasions that you were in room 319A?
A No.
Q And I take it then you have never handled or filed any records like this?
A No, that doesn't look familiar to me at all.
Q Not even during the campaign or while you were at the governor's mansion?
A No.
MR. DINH: I have nothing further. Thank you.

EXAMINATION

BY MR. PORTNOY:

Q My name is Jim Portnoy and I am counsel for

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the Minority and I have very few questions.
You spoke at some length about events of July 20, 1993, the night Mr. Foster died?
A Yes.
Q You were asked about the phone call you placed to the governor's mansion in Arkansas?
A Yes.
Q What is your best estimate of the time at which you placed that call?
A 10:30.
Q You are certain you placed the call after the beginning of the Larry King show?
A Positive.
Q Is it your recollection that you placed the call after the end of the Larry King show?
A Yes.
Q You spoke with the President in the kitchen before you placed the call or after?
A Before.
Q So you placed the call after you spoke with the President?
A That's right.

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Q And the President was on the Larry King show that night?
A That's right.
Q The show was finished when you spoke with the President?
A Yes.
Q Have you ever told anyone that Mr. Foster killed himself in the White House parking lot?
A Never.
Q More specifically, have you ever said that to Roger Perry?
A Never.
Q Did you ever have reason to believe that Mr. Foster killed himself in the White House parking lot?
A Never.
Q Did you ever tell anyone that Mr. Foster had killed himself in his car?
A No.
Q Did you ever tell Mr. Perry that Mr. Foster had killed himself in his car?
A No, I did not.

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Q Mr. Dinh showed you a sheaf of documents, which are billing records from the Rose Law Firm. You testified that you have never seen those documents before?
A That's right.
Q With the exception of anything you may have learned from the press or the media, do you have any information at all about how those billing records may have gotten to the White House?
A I do not.
Q Do you have any information at all as to how those billing records may have gotten to room 319?
A I do not.
Q Do you have any information at all about Ms. Huber's discovery of the documents?
A I do not.
MR. PORTNOY: That's all I have. Thank you very much.
MR. DINH: Mr. Tisdale asked for some time in order to ask any clarifying questions in lieu of interrupting our deposition time. And both counsel

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have acceded to that, with the usual proviso that we reserve our right to ask any follow-up questions if necessary.

EXAMINATION

BY MR. TISDALE:

Q I think the question was asked of you earlier, did you know anybody at the governor's mansion on the night that you called, which was July 20th of 1993. And I am not sure I heard your answer, whether it was yes or no.

Did you know people other than Roger Perry who worked at the governor's mansion?

A Yes, I did.

Q Did you know the then-governor's wife personally?

A No.

Q What was the purpose of your call to Mr. Perry that night?

A The purpose of my call to Mr. Perry, or to anyone who had picked up the phone -- he happened to be the one that picked up the phone -- was to let the troopers -- I was friends with all the troopers that

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worked there -- to let everyone know because they all knew Mr. Foster. Some had known him for many years. And if he was so inclined, to let the governor know, but I did not call specifically to tell the governor.

Q Okay. With respect to the timing of the call to the governor's mansion that was answered by Mr. Perry that you made, are you certain that it was after the call you made to your father in Atlanta?

A Positive. And all the times that I have spoken of have been eastern times.

Q Let's move forward to July and August of 1995 time.

When you were in room 323, doing the typing and work on the First Lady's book, what was -- the door into that from -- from that room into that main corridor hallway, was that normally open or closed?

A The door to Mrs. Clinton's office was normally closed.

Q As far as you know, it was always closed when you were in there?

A Yes.

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Q How about the doors from that hallway into 319A, were those doors normally open or closed based on the time you were in the White House?
A They were always closed.
Q Do they have an automatic close on them of some sort?
A They swing closed.
MR. DINH: I'm sorry, "they" being?
THE WITNESS: The two doors to 319A. They both have door closers on them.
BY MR. TISDALE:
Q Earlier you described what happened after John Fanning told you about Vince Foster's death and I think you described it as you fell apart. Can you give a little better description of what you did?
A I immediately started to cry. It was like he had told me that my father had been killed, and it was the biggest shock in the world.
Q Was it something -- was it the type of occurrence such as the assassination of John Kennedy or the explosion of the Challenger where you will always remember where you were when it happened?

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A Yes, I remember what I was doing and what I was wearing, yes.
MR. TISDALE: I don't have any other questions.

EXAMINATION

BY MR. DINH:
Q Actually let me just ask you two quick follow-up questions. Who were the other persons in the governor's mansion besides the troopers you knew? Anybody else besides the trooper?
A I knew all the troopers. I knew the kitchen staff. I knew everyone except the governor and his family.
Q So all the staff basically?
A Yes.
Q And those were the intended persons of your call, intended recipient of the news that you were conveying in those phone calls?
A That's right.
Q I take it that includes Larry Patterson and Lynn Davis?
A I don't know who Lynn Davis is.

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Q Does that include Larry Patterson?
A Yes.
Q Actually if I can ask counsel to indulge, there was one line of questioning which I completely forgot to mention earlier.
Let me direct your attention to the room where you primarily worked in which is room 323. Do you recall if there was a closet in that room?
A I don't recall.
Q Okay, let me direct your attention to the door where my pen is, door number 359, which is the closet that is, if you were sitting at the table at which you usually work, there is a door that's just to the left of your table against the wall there. Do you recall seeing a door there?
A Yes, I know that there is a door there.
Q There is a door there. Have you ever seen that door opened?
A No.
Q Do you know if that door is kept locked?
A No.
Q You just simply noticed the door but never

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had any occasion to investigate?
A That's right.
Q You do not know whether there is a closet back there or anything else?
A That's right.
Q Have you heard any discussions regarding any records or anything about the contents of that closet?
A No.
Q Or any of the records that were stored in the closet?
A No.
MR. DINH: Thank you very much, I have nothing further.
(Whereupon, at 4:45 p.m., the deposition was adjourned.)

HELEN DICKEY

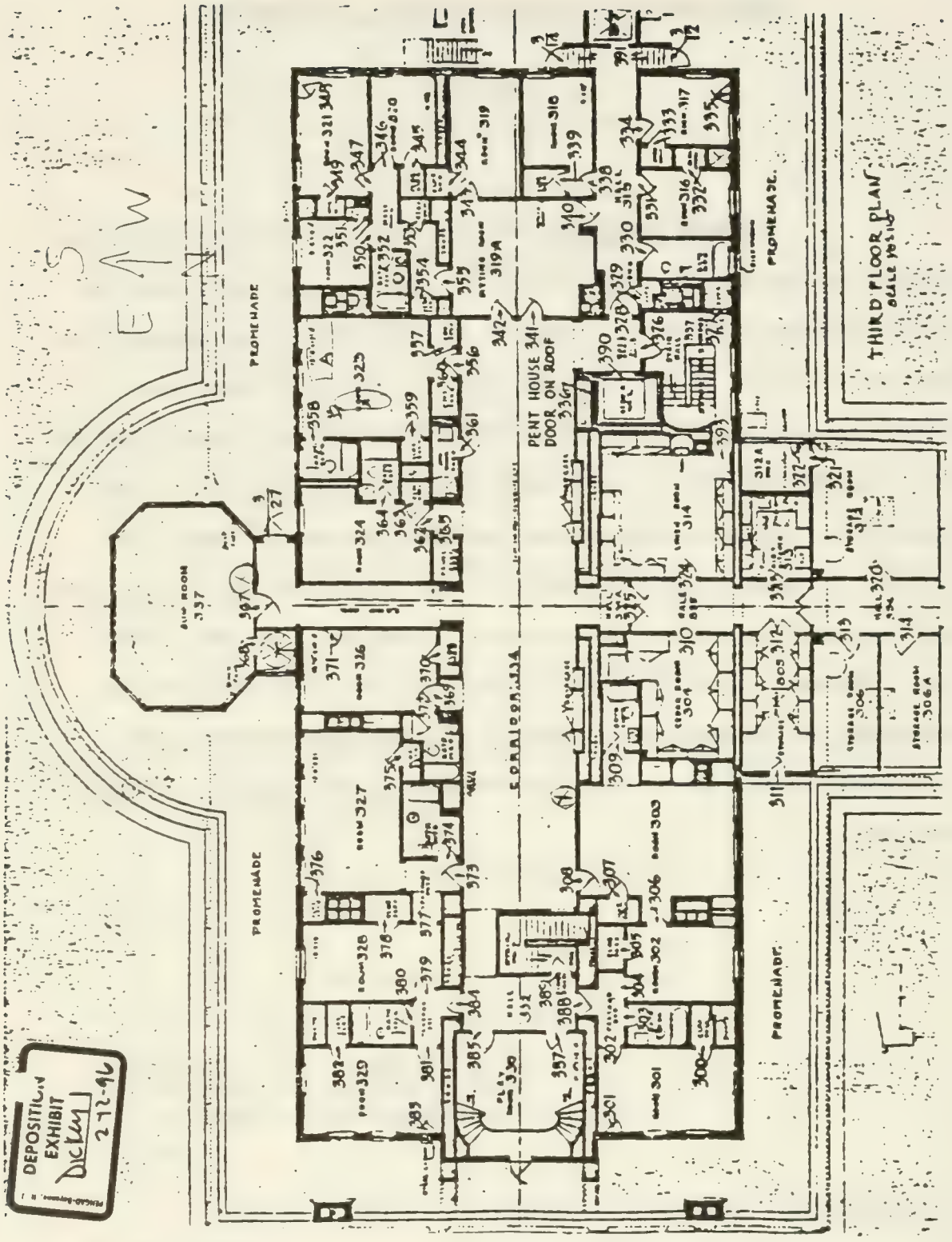
CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JOANNE LIVERANI , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

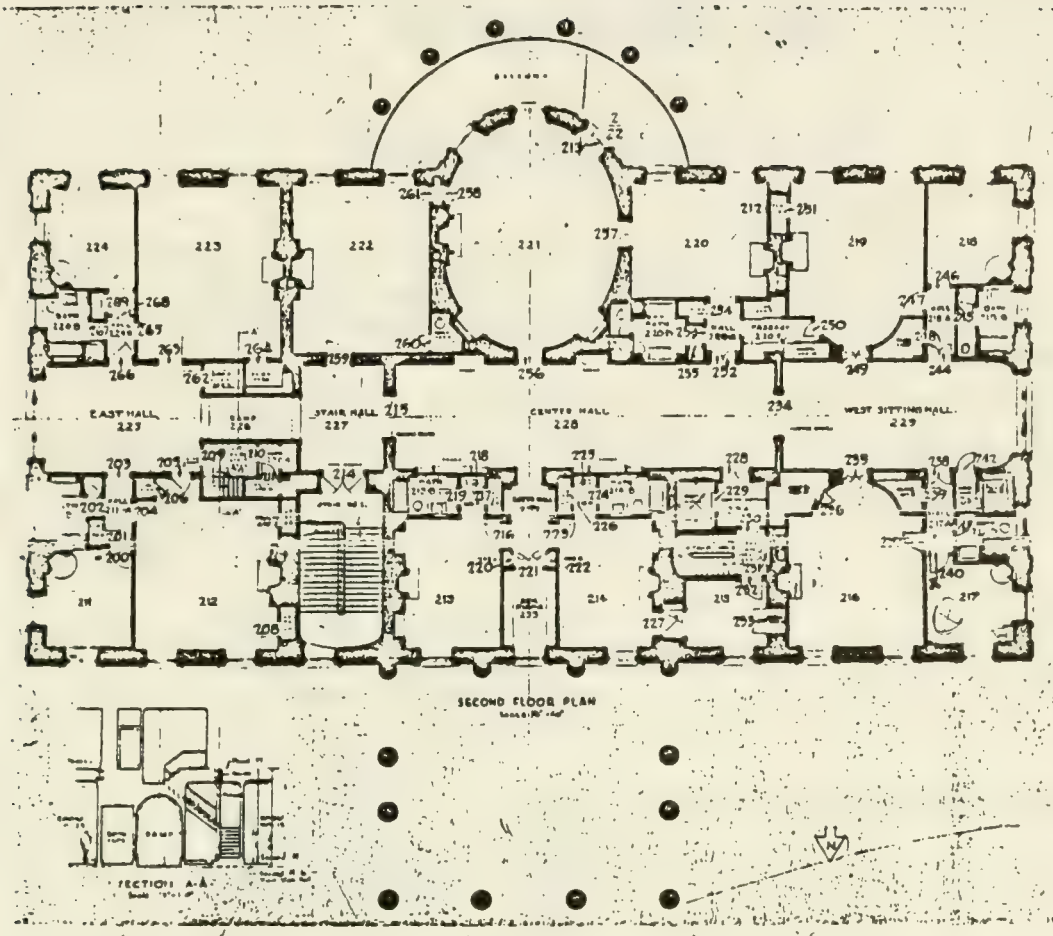
Joanne Liverani

Notary Public in and for the
District of Columbia

My Commission Expires JULY 31, 2000


THIRD FLOOR PLAN
PROMENADE
PENT HOUSE 341
DOOR ON ROOF
DEPOSITION
EXHIBIT
Dictum
272-96

DEPOSITION EXHIBIT
Dicken 2
2-12-96 JL



Second Floor Plan

DEPOSITION OF BARBARA L. FEINMAN
IN RE: S. RES. 120

MONDAY, FEBRUARY 12, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of BARBARA L. FEINMAN, called for examination pursuant to notice of deposition, at 9:37 a.m. in Room 534 of the Dirksen Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, ESQ.
Majority Associate Special Counsel
GLENN F. IVEY, ESQ.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

JAMES M. SPEARS, ESQ.
Gadsby & Hannah
1747 Pennsylvania Avenue, NW
Washington, DC 20006
On behalf of the Deponent.

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Barbara L. Feinman

DEPOSITION NUMBER	IDENTIFIED
Feinman Exhibit 1	19, 2991

PROCEEDINGS

MR. DINH: Ms. Feinman, as you know, my name is Viet Dinh, and I'm with the Majority staff of the Special Committee. And Mr. Glenn Ivey is also with us, he's of the Minority staff of the Committee.

This deposition is being conducted pursuant to Senate Resolution 120 which I just handed your counsel a copy of. The resolution establishes a Special Committee to investigate Whitewater Development Corporation and related matters to be administered by the Senate Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

Section 1(b)(1) of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in an office of White House Deputy Counsel Vince Foster following his death."

Section 1(b)(3)(A) of Resolution 120

authorizes an investigation and public hearings into "the operations, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes an investigation and public hearings into "the policies and practices of the RTC and the federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association."

I anticipate that these subjects will be the focus of today's deposition. Your testimony today will be taken under oath and a stenographer will prepare a record of questions and answers. This deposition is taken in advance of public hearings. We have not decided who will be among the witnesses of such hearings but as I advised counsel last week, if we do call you to testify at those hearings, I anticipate that the likely scheduled date would be Thursday of this week, February 15, 1996.

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The transcript of this hearing -- of this deposition shall be treated as Committee confidential until the commencement of the hearings at which you may be called to testify. At that time it may be made in -- made public in whole or in part.

Prior to the hearings, you will receive a letter or a call from our Committee advising you that the transcript is ready for your review and for your preparation for any public hearings. The transcript is provided to you for the limited purpose of review and for preparation for the hearings and is not to be disclosed for any other reasons.

You may be represented by counsel and if counsel would make an appearance for the record, it would be greatly appreciated.

MR. SPEARS: Yes, my name is James M. Spears. I'm with the law firm of Gadsby, G-a-d-s-b-y, & Hannah in Washington, D.C. and thank you very much for letting me make just a couple of preliminary statements.

We are appearing here at the Committee's request. I received a call from Mr. Dinh last week

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in which he asked whether Ms. Feinman would voluntarily appear before this Committee. I indicated to Mr. Dinh that Ms. Feinman was certainly interested in cooperating with the Committee and certainly assisting in any legitimate areas of inquiry.

One of the issues that I think, and one problem that we have with respect to Ms. Feinman, is that Ms. Feinman was employed by Simon & Schuster to assist Mrs. Clinton in the preparation of the book which was recently released, "It Takes a Village." And as is normal in those kinds of situations, people who are asked to assist or who have contractual interest in assisting in the preparation of this kind of book enter into a confidentiality agreement with the publisher and with the author that essentially says that they will not disclose the mechanics and the way that the book was put together and those kinds of things.

Part of it is is that we're -- I'm very concerned and at this point we want to respect that confidentiality agreement. Ms. Feinman is a writer.

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Some of the work that she does is assisting people in terms of the preparation of their books. These confidentiality agreements are stock in trade and, quite frankly, Ms. Feinman's adherence to that confidentiality agreement could have substantial implications for future employment if she were not to pay attention to it.

So what I would like to do, if I could, is just stipulate some facts for the record which will assist, I think, both of you in terms of the questions -- helping frame the questions so that we can avoid getting into some of the issues that might be protected by the confidentiality agreement.

So what I would like to do is just stipulate that Ms. Feinman was hired by Simon & Schuster to assist Mrs. Clinton in the writing of the book. Ms. Feinman assisted Mrs. Clinton for eight months beginning in February 1995 and ending at the end of September 1995. In that respect, Ms. Feinman conducted research, produced notes from a series of taped interviews with Mrs. Clinton, prepared preliminary drafts of some materials, edited

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materials that Mrs. Clinton had prepared and otherwise assisted in the production of this book.

And I guess that's kind of what I would like to put on the record so in terms of the questions and stuff like that, if we work from that basis, I think we can handle it without getting anywhere, running afoul of the confidentiality agreement.

MR. DINH: And as I advised counsel, Mr. Spears, last week, and so Mr. Ivey will note it, I do not intend to get into any of the mechanics that will infringe upon the confidentiality agreement that you have with Simon & Schuster, so to the extent that I can, consistent with my memory, I will use the phrase that counsel has used, assisted Mrs. Clinton in preparation of the book, or something to the equivalent, without probing into the mechanics, other than what Ms. Feinman and her counsel have stipulated to here.

MR. IVEY: That's certainly fine with me. My understanding is that we're only here really to figure out issues about the billing records, and I

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don't -- I would think we could meet your concerns very easily.

MR. DINH: Precisely.

THE WITNESS: Thank you.

MR. DINH: And whatever mechanics with respect to your actual work for Mrs. Clinton is only incidental to our primary investigation and on that note, I would advise counsel that pursuant to the procedures set forth in Resolution 120, objections as to the form of the questions will be noted for the record. There are two grounds upon which counsel may object and give an instruction not to answer. That is privilege and scope.

And ultimately, the Committee Chairman will rule on objections where the witness refuses to answer the question. And consistent with our conversation earlier, please advise me when you think that a line of questioning or the way I phrase the question is not in comport with our understanding here with respect to the confidentiality agreement.

MR. SPEARS: Fine.

MR. DINH: And I promise not to slip up.

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MR. SPEARS: Very good.

MR. IVEY: Off the record.

MR. DINH: Sure.

(Discussion off the record.)

Whereupon,

BARBARA L. FEINMAN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. DINH:

Q Ms. Feinman, can you state your name for the record, please?

A Barbara Laura Feinman.

Q Ms. Feinman, from the notice of deposition that you received from the Special Committee, have you had any conversations outside of your immediate

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family members and your counsel with respect to the subject matters you've been asked to testify about?
A No.
Q Without telling me what you were asked or what you said, can you tell me whether you've been interviewed or questioned by any other investigative agency regarding the matters you are about to testify?
A No.
MR. SPEARS: For the record, Counsel, I want to let you know that we received calls from Steve Powatin of the Independent Counsel's office and he has indicated an interest in speaking with Ms. Feinman as well.
BY MR. DINH:
Q Can you give us a brief history of your educational and professional background?
A I graduated from the University of California, Berkeley in 1982 with an undergraduate degree.
Q Did you go to graduate school?
A Then I went to graduate school in 1990 and

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graduated in '92 from Georgetown University with a master's in English.
Q And your counsel indicated that you are a writer?
A I'm a writer. I'm a freelance writer and freelance editor, and I also teach part-time at Georgetown University.
Q Do you teach writing?
A I teach journalism.
Q So by "freelance," you mean you are a self-employed writer?
A Yes, I'm self-employed.
Q And your counsel stated that beginning in February 1995 and through September 1995, you were in a contractual arrangement with Mrs. Clinton and Simon & Schuster to assist Mrs. Clinton in the preparation of a book?
A That is correct.
Q Prior to this time, had you ever met Mrs. Clinton?
A I met her on one occasion. I collaborated on a book with then Congresswoman Marjorie

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Margolies-Mezvinsky from Pennsylvania, and Congresswoman Margolies-Mezvinsky and myself went over to the White House and interviewed Mrs. Clinton for about an hour, and that was in I believe 1993.

Q Do you remember approximately when in 1993? Was it before or after the summer of 1993?

A I don't remember right now. I could look in my records and I could tell you if it was important, if you wanted to know.

Q That's quite all right, thank you. During this initial interview in 1993 with Mrs. Clinton, did you talk about Whitewater Development Corporation?

A No.

Q Did you talk about Madison Guaranty Savings & Loan Association?

A No.

Q Did you talk about Capital Management Services?

A No.

Q I take it the topic of your conversation was mostly regarding the Congresswoman?

A It was about women in Congress, the topic

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of the book. Women in politics, women in Congress.

Q Did you talk about anything else other than women in Congress?

A Actually, I barely spoke. No. The answer is no.

Q Did the Congresswoman and Mrs. Clinton talk about anything else other than women in Congress, that you can recall?

A Not that I can recall.

Q Did you talk about White House counsel, Deputy Counsel Vince Foster at all?

A No.

Q Prior to February 1995, had you met President Clinton before?

A No.

Q And I take it since then you have?

A Yes.

Q Let me focus your attention now to the period during which you were working for Mrs. Clinton on this book, "It Takes a Village." By the way, a very well-written book. I just picked it up this last weekend and browsed through it.

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When you were working on the book, where was your work space in the White House?

A My work space in the White House -- actually, I think it would be useful for both of us, for all of us, if I explained there were different phases of the, kind of, work and so then I could answer the questions more easily.

Q That would be great.

A There were basically three phases. I was hired -- in February, we had some preliminary talks. Mrs. Clinton, the Simon & Schuster editor, Rebecca Saletan, S-a-l-e-t-a-n, and myself, and it was decided after a couple of meetings that I would help Mrs. Clinton on her book. And I started to go over to the White House to talk with Mrs. Clinton about the book.

So I would say the first phase was in February when I first spoke with her about the book, through May. And in those months, I would go over to the White House maybe once or twice a week when Mrs. Clinton was in town and interview her for an hour, maybe a little longer. They were taped

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interviews, and they were transcribed and then we would use that material to work from.

So during that time period from February, mid-February, through I'm guessing the end of May, I would go over to the White House and meet with Mrs. Clinton in a couple of different places, sometimes in her office. I'm terrible with geography but it wasn't in the residence, it was in one of her offices.

Q That's fine. Can you tell me what you did in phase 2, which I presume started in June 1995 or did you take some time off between May and June?

A No, no.

Q So then phase 2 started in June of 1995?

A Right, and that was instead of just coming over once or twice a week, I would come over several times a week and I would stay for different lengths of time, maybe come over at 9:00 in the morning and leave at 5:00 in the afternoon or stay and work through dinner or sometimes go home midafternoon and work at home, but I was working then, instead of in other places around the White House, you know,

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instead of meeting with Mrs. Clinton, I was coming up to the third floor residence and working in her office. There were two desks there, and I would work at the desk with the computer and she would work at her own desk that did not have a computer.

Q And when did this phase last until?

A It lasted until we went to Jackson Hole for their vacation, I accompanied them, and that was August 15 that we flew out in Air Force One.

Q And I take it from August 15 to the end of September that was mostly the final revisions?

A From August 15 until I was in Jackson for 17 days and then I flew back on a commercial airline and they went on to Hawaii and Mrs. Clinton went to China. Then when she came back, I worked mostly at home, sometimes I'd come in and work in the Old Executive Office Building with a woman who had been hired by Simon & Schuster to do some research, and we would go over and see Mrs. Clinton in her office, give her the research, talk with her and then we would leave.

Q Let me focus your attention to what you

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have identified as the second phase of your work for Mrs. Clinton in June through August 15, 1995. For the relevant period, I would like to focus your attention further down to July until August 15, 1995.

A Okay.

Q Let me show you a sketch that we have of the third floor of the White House. And let me focus your attention in particular, north is facing down, so the top of the page is the south side -- south --

A Here is the thing, I don't do directions.

MR. SPEARS: There's the solarium, Washington monument is over here.

BY MR. DINH:

Q The Washington monument is at the top --

MR. SPEARS: That's what did it for me. It's a guy thing.

MR. DINH: Easy, Mr. Spears. This is the 1990s.

BY MR. DINH:

Q Let me direct your attention now to the rooms that I have highlighted here in yellow. And --

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MR. DINH: Actually, let me ask to have this labeled as Feinman Exhibit 1.

BY MR. DINH:

Q And let me explain the various rooms just to orient you. This is an old sketch of the third floor of the White House, dating back to the Truman renovations. At that time, you can see at the upper right-hand side corner of the sketch there are three rooms. 322, 321 and 320. Those three rooms I would represent to you are now one room. The walls have been taken down, and that is what is now commonly understood as the residence exercise room.

A Okay.

Q Room 323 is an office, from what I understand, was originally remodeled for Ms. Carolyn Huber's use but in July and August of 1995 was used by Mrs. Clinton for the preparation of her book. Room 319A is what is commonly referred to as the book room in the White House residence. The diagram shows two doors, 341 and 342. 341, from what I understand from the testimony, is usually blocked so the entrance to the book room is through 342.

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Room 319, which I also have highlighted, you can see has an entry, the sole entry is through door 343, which is through what I have identified as the book room, room 319A, and I understand room 319 is used as a closet or a room for table linens for the White House.

A Used for what?

Q This room 319 is for the table linens.

A Okay.

Q And 319A is commonly referred to as the book room. Are you sufficiently oriented with the diagram and are you now -- can I ask, you are familiar with these rooms that I have identified?

A I am.

Q Now, you stated earlier that during phase 2 of your work, you mostly worked in Mrs. Clinton's office. Would that be room 323?

A Yes.

Q And you said that there were two desks there?

A Yes.

Q Can you take my pen and draw and mark as

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X -- draw me two desks and where they are in the room and mark as "X" Mrs. Clinton's desk and mark as "Y" the desk you commonly used?

A (Witness complied.)

Q During this period of time, did you also have occasion to enter into room 319A, commonly referred to as the book room?

A No, I was only in there during that time period twice.

Q You were only in there during the time period twice?

A Yes, and I believe they were on the same day.

Q They were on the same day?

A Yes.

Q I will ask you more specific questions later regarding your specific entries into that room on those days.

You did not regularly work in room 319A?

A Absolutely not.

Q You did not use the computer in room 319A at the time?

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A No.

Q Did you use the room in any way at any time to do any editing or anything like that?

A Nothing, never.

Q When you were waiting to see Mrs. Clinton upon these visits, did you wait in room 319A?

A No.

Q Where did you wait for her when she was occupied?

A I would come in through the usher's office and they would detain me until Mrs. Clinton was ready, and then Capricia Marshall usually would come downstairs to the usher's office and escort me up to Mrs. Clinton's office. On occasion, the ushers would escort me up there.

Q When you come in, do you come in on the ground floor of the White House residence?

A Yes.

Q And you took the elevator up?

A Yes.

Q Is that your usual course or did you at any time deviate from that course?

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A It depended on whether I drove or walked to the White House from my home. If I drove, then I came in -- give me a minute here. There's a promenade is a place to park between the Treasury and the White House, and sometimes I would drive so I would come in through that gate, park right there on the promenade and come in through the gate. And then sometimes someone would come and meet me and I would walk through the White House, I don't know what door it was, and they would take me to the usher's office but it was always through the usher's office.

Q Right. So you either took the elevator on the ground floor up to, I guess it would be the second floor or was that the first floor that you would go up to?

A There were millions of floors and I never knew where I was basically.

Q To the usher's office or you would enter through what is commonly referred to as the state floor?

A Right, thank you.

Q And then go to the usher's office there?

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A Yes.

Q But you would always wait at the usher's office and announce your presence at the ushers for them to alert Mrs. Clinton?

A Yes.

Q You never just took the elevator straight up to the third floor?

A No.

Q Besides room 323 and the two times that you were in room 319A that you have alluded to earlier, were there other rooms on the third floor that you used as your working space?

A There was just a very isolated incident where I needed to take the transcripts of our interviews and cut and paste them, and I needed a big space where I could actually put them out, spread them on the floor and move them around. I mean, I'd rather not get into the mechanics of the book but I needed a room where I could work and spread out, and I believe it was one of these rooms (indicating). It was just one of the guest bedrooms that they allowed me to use for a day.

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Q The record will reflect that the witness was pointing approximately to room number 330.
A Yeah, it was one of these back bedrooms. I'm not sure which one but my guess would be right around there.
Q But that was one single isolated incident?
A Yeah, I think it was one day or maybe two days and that was it.
Q So other than that one day and then -- or that one occasion and the two times you went into the book room, which I will get into later, you worked exclusively at the desk marked Y in room 323?
A Yes.
Q Did you on occasion stay overnight in the White House residence?
A Towards the end of either -- I think it was towards the end of July or beginning of August, I stayed over I think maybe four nights. You could check the logs, I can't remember, because I was working late and we just decided it would be easier for me and safer rather than going out late at night. And also, on July 30, I sprained my ankle and

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was hopping around and so it was just easier a couple of nights to stay over.
Q During those days that you were staying over, did you primarily stay in what I am indicating now, in room 324?
A That's the guest bedroom next to Mrs. Clinton's office. I stayed in there I think two nights, maybe more, and then Carolyn Huber needed to stay in there one night because they had a lot of guests and she wanted to be around, so I think then I actually went home, but when I came back, I then stayed for a night or two in one of these rooms (indicating).
Q One of these rooms over in the other end?
A Yes.
Q We have some records that will try to help you refresh your memories and I will ask whether they are consistent with your memory a little bit later and I just wanted to get a general overview.
A Okay, good.
Q When you were staying over as a guest of the White House, did you have occasion to enter into

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the book room for any reason?
A No.
Q The book room being 319.
A No. I get a little bit thrown off because I think of Mrs. Clinton's office as the book room because that's where we were working on a book. I'm a little confused why it's even called the book room but --
Q I guess it's the specific versus the general. The specific being room 323 when you were talking about a specific book that you were working on, "It Takes a Village," and the reason why the book room is called the book room in the general sense of the word "book" is that it is used for shelving reference books and the like, there are shelves around. That's what I've been led to understand. I have no independent knowledge of the logic for naming rooms in the White House.
A Okay.
Q So the two times that you had occasion to enter into 319A, those times were not incidental to you staying as a guest in the White House?

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A Absolutely not. When you're ready for me to explain it to you, I will.
Q That will be fine. I'm trying to build up here, like a good novelist, I'm trying to build up the suspense.
A It's going to be very anticlimactic for you.
(Laughter.)
They would send you back to rewrite for this one.
Q You did not go in there to -- in order to get any videotapes or anything like that?
A No.
Q You didn't go in there to use the exercise room?
A No. I never went in there for videotapes and I went never went in there to exercise.
Q I take it you never went in there for table linens?
A For table linens? No.
Q Let me ask you, then, about specifically the two times that you went into the book room, room

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319A.
A Okay.
Q Do you remember the approximate dates of these two times?
A I don't remember the approximate dates but I can tell you, it was early on when I started to work at the White House in Mrs. Clinton's office, so my guess would be it was late May or early June.
Q Could it have happened at any time in August?
A Absolutely not.
Q Could it have happened at any time after July 15, 1995, middle of July?
A No, absolutely not. I do want to differentiate. I went in there I believe on one day, two different times, in late May or early June, and then after we came back from Jackson in late September, on one evening I went in there.
Q But that was after August 15?
A That was way after, so I just wanted to make it clear that I expressed myself clearly, that there were these two times on one day that I went in

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before Jackson.
Q Before Jackson. And I take it that was because you said that you were not in the White House before Mrs. Clinton came back from China?
A Right.
Q So it would be in September sometime that you were in -- the third time that you entered?
A Right.
Q Let me focus on the one day that you enter -- the two occasions on one day that you entered into the book room. You stated it was sometime in May or June of 1995?
A Yes.
Q Could it have been in July of 1995?
A Absolutely not.
Q And can you tell me, how did you have occasion to enter the book room on that occasion?
A It was in the beginning of when we began to work in this office on the third floor, and I came in one morning and Capricia Marshall, Mrs. Clinton's assistant, told me that Mrs. Clinton was exercising in the exercise room and wanted to tell me something

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about the book, and so she, meaning Capricia, took me into the exercise room to speak with Mrs. Clinton, so we walked through this room that I assume is the room you're talking about, we just walked through it, which took like five seconds, went to the exercise room. I spoke with Mrs. Clinton briefly and then Capricia led me back out to our office.

Q Your office being room 323?

A Being 323. And then a little while later, if my memory is serving me correctly, it could have been the next day but I believe it was a little while later, I had a question for Mrs. Clinton and I think I asked Capricia if I could go back in there or Capricia said go ahead, you can disturb Mrs. Clinton, it's okay, and I walked back in, asked Mrs. Clinton a question and then walked back out.

Q Let me direct your attention back to the diagram marked Feinman 1. I take it that you entered where I am pointing now to door labeled 342?

A I guess. I don't know.

Q Do you remember, you said it was seconds. Do you remember approximately what was the distance

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between the door that you entered in and the door into the exercise room?

A Are you asking me --

Q The approximate distance.

A The distance?

Q How many steps did you take? I'm sorry, that may be a little bit easier.

A 10.

Q And you just walked directly from one door to the other door?

A Right.

Q Was the door to the exercise room where I'm pointing at right now, was that door closed at the time that you can remember?

A I don't even remember a door. It could have been just an entranceway, for all I know. I was in there very briefly.

Q So you just walked straight through?

A Walked straight through, talked to Mrs. Clinton and was escorted out.

Q Did you linger at all in room 319A, which -- portions of which you have to walk through

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in order to get to the exercise room?
A No.
Q Did you have time to look at the room? Did you take note of the room in any way?
A I have a vague, nonspecific recollection that it seemed like a storage room to me.
Q You didn't see any books or anything like that that would even stand out in your mind?
A I don't have any memory of any specific objects. It just seemed like a hodgepodge of a room.
Q What gave you that impression? Was it crowded with stuff?
A There was a fair amount of stuff, and it just wasn't decorated. You know, it didn't have finished decor the way the rest of the rooms that I was used to being in were.
Q Was the lighting bright or dim, if you can remember?
A I have no memory of lighting one way or the other.
Q So other than these two times that you have just basically walked through the room in order to

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get to the exercise room, you stated that you came in in September sometime?
A In late September, yes.
Q Now, on what occasion did you come into the book room then?
A My memory is a little bit hazy as to the rest of the day, but I believe it was a day where I worked in the Old Executive Office Building with the researcher, Liz Boyer, and that we came over late in the day, maybe around 6:30 or so, to give Mrs. Clinton some material, and Capricia was also there, and there was a young woman named April, I don't know her last name, who was working on a laptop in that room.
Q In that room, okay.
A Yeah. And it was my impression or my memory that she had been doing some typing for Mrs. Clinton. And I went into that room, and everybody was leaving. It was a Friday night, I think, and there was a printout that was about to come out. Everybody was leaving. Capricia had to go somewhere and I volunteered to wait for the printout

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and put it on Mrs. Clinton's chair.
Q Was April waiting there?
A April left. I don't remember when she left but I remember the reason I was staying was because I needed to wait for this printout so I could walk out of there and take it to Mrs. Clinton's desk.
Q Approximately how long were you in the book room on that particular time period?
A 15 minutes. It was late September.
Q And you said that April at that time was using the space in order to do some typing. Was it significantly cleaner than you remember, than before?
A I don't really have much of a basis of comparison, because when I was in there in early June or whenever it was, it didn't make much of an impression on me, so it wasn't like oh, this room looks different to me. The only thing that was different was that there was a laptop, that April and a laptop were there, and a printer.
Q Were they all on the same table?
A Yes.
Q Was it a computer type table or was it like

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a desk?
A It's my memory that it was like a folding table, or some kind of just a bare table, not a wood table but like a metal table or something like that.
Q Of approximately what size, do you recall?
A It was bigger than that table.
Q Approximately 6 feet?
A 5 feet.
Q 5 feet, okay. And the printer was also on this table with it?
A Yes. From there to there. How much does that indicate (indicating)?
MR. SPEARS: About 5 feet.
BY MR. DINH:
Q We'll stipulate that it looks like approximately 5 feet.
A My distance ability is about as good as my geography.
Q You're doing very well. Let me ask you to take my pen again and draw for me to the best of your recollection where that table was in that room.
A Which one is the exercise room, right

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there?
Q This area, and that's the entrance to the exercise room.
A I'm not really sure. The desk was -- as you walked in, the desk was across in front of a wall, and I feel like the hallway went to the left of it and was beyond -- and that the entrance was beyond it, but it's hard to draw what I'm saying on this thing.
Q Let me just turn this and just tell you that if you came in, you would come in like this.
A Then if there were a wall here --
Q Let me tell you that's the wall.
A If that's the wall, then here is the desk (indicating).
Q Could you mark that A, please.
A (Indicating).
Q Other than these three occasions, did you have any other occasion to walk into what I have identified as room 319A?
A To the best of my memory, those were the only times I was ever in that room.

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Q And with respect to the first two times, you said Ms. Marshall advised you that Mrs. Clinton was in the exercise room. Do you know if Ms. Marshall was working in the book room at that time, do you have an understanding or recollection regarding that?
A I don't think she was. Capricia was doing many things and moving around. She had a beeper and I would beep her sometimes, but she didn't seem to be stationed in one place. Her duties took her all over.
Q Now, with respect to the second time, that is, the second day, sometime in September that you said you entered into the room -- into the book room, you said a young woman named April was there in the room working at the time?
A Yes.
Q And Ms. Marshall was there in the room at that time?
A Yeah, or she came soon after. I don't remember. April was definitely there. Capricia was there at some point. I don't know if she was there

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when we got there but she was in and out.
Q Was anybody else in the room at any time that you were there during this 15-minute period?
A No.
Q Mrs. Clinton did not come in the room in order to ask for the printout?
A No. She stayed in her office.
Q She stayed in her office?
A Right.
Q Does she keep that office door closed when she's in there working?
A Yes.
Q Does that door have an automatic stopper on it so that when you open it, it automatically shuts again?
A No.
Q By "that door," I mean the door to room 323.
A Mrs. Clinton's office?
Q Mrs. Clinton's office.
A No. You have to close it yourself.
Q But it is generally kept shut?

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A Yes.
Q Ms. Feinman, let me direct your attention now to a record I have labeled S 020017, and I will show that to you. Let me represent to you this has been produced to us by the White House as -- actually I'll give you your copy.
A Thank you.
Q Let me represent to you that this has been produced to us by the White House and it reflects records kept by the White House usher's office with respect to entries and exits from the White House residence, and this, as indicated by the top of the page, is the record for Wednesday, August 2, 1995.
And let me ask to direct your attention to the entry labeled "10:30" there. First of all, let me start by giving you a reference point within your own personal life. You said that you sprained your ankle on July 30, 1995?
A Yes.
Q So this would be approximately three days after you sprained your ankle on July 30?
A Yes.

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Q Do you remember that particular day when you came into the White House at 10:30 in the morning? This would be a Wednesday.
A Well, what I can remember about that week is that for a few days, maybe two days, one of Mrs. Clinton's assistants came over and picked me up because I couldn't drive, and that may have been one of those days.
Q So you sprained your ankle on a Sunday?
A Sunday night, I sprained it. Monday, I went to the doctor and Mrs. Clinton told me to stay home and rest, and I would say that Tuesday and Wednesday someone came over and picked me up and drove me over to the White House.
Q So this would be that one occasion on the Wednesday, right. And the record reflects that you had lunch at the White House. Is that consistent with your recollection?
A Yeah, usually when I was working in Mrs. Clinton's office, one of the butlers would bring a sandwich up for me.
Q A sandwich up. Would you take that

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sandwich in room 323?
A I was in 323, they brought it there and I stayed there.
Q Did you sometimes go over to 337, what I have indicated now as the sun room or solarium to have a more formal lunch?
A I did eat some meals in the sun room but rarely lunch.
Q Most of the time you worked through lunch?
A Yes.
Q In room 323?
A Yes.
Q You'd make a good lawyer.
A My father wanted me to go to law school, and you can put that on the record.
Q I think you found a better calling.
MR. SPEARS: I'll stipulate to that.
(Laughter.)
BY MR. DINH:
Q And the record further indicates that you were a houseguest that night. Is that consistent with your recollection?

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A Yes, I remember -- yeah, that makes -- yes, that's correct.
Q And it indicates further that you stayed in room 324, and I believe this is consistent with your earlier testimony that during this time period you were staying in room 324?
A Right.
Q Which is the bedroom right next to the office?
A Right.
Q Now that I have your attention focused on this particular day, can you tell me specifically whether you spent the entire day in room 323?
A Yes. I don't mean to be facetious but I was hopping around, so there wasn't much -- I couldn't go very far.
Q So you would remember if you were hopping to another place?
A Yes, I remember hopping to another place, exactly.
Q Incidentally, just so the record is clear, there is a restroom off 323?

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A Yes.
Q It is where I'm indicating right now, which is at the top side?
A Yes, yes.
MR. SPEARS: Is that ours?
MR. DINH: No.
MR. SPEARS: Okay.
BY MR. DINH:
Q And now with respect to the next day, on Thursday, the day following, do you remember if you stayed in the White House on that day?
A I don't have a clear recollection, but I believe I didn't stay over that night, Thursday, but that I did stay over Friday. Do you have something that can help us out?
Q Yes, I have a record for Friday, August 4.
A I stayed --
Q No, this is for Friday, August 4, and it indicates that you entered the White House at 9:00, which again is consistent with your memory that you just stated.
Now, did you recall that you came in at

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approximately around 9:00?
A I don't have a specific memory but that sounds right.
Q Did somebody come and pick you up again?
A I think by Friday I was able to hop out to the corner and take a cab.
MR. IVEY: By the way, what was the exhibit number on that?
MR. DINH: I'm sorry. Thank you, Mr. Ivey. The exhibit number was S 020019.
BY MR. DINH:
Q And now let me direct your attention to where I'm pointing. The record indicates that you had lunch brought up to you at 12:45. Is that consistent with your memory?
A Yes.
Q Let me direct your attention now to the entry for 7:30. And that denotes that you had dinner with the President, Mrs. Clinton and a woman identified as Kaki Hockersmith, and Barbara Feinman. Do you recall that dinner?
A Yes.

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Q Now, that indicates that it was taken in the solarium, the sun room?
A That is correct.
Q This is one of the meals that you said you had taken in there?
A Yes.
MR. IVEY: Is this on 8-5? Is this 20019, first?
MR. DINH: This is 8-4. The one before was August 2, 20017.
BY MR. DINH:
Q Let me direct your attention to that particular dinner. Do you recall the general focus of the conversation?
A We talked a little bit about the book, "It Takes a Village," the President spoke for a little while about politics in general, I don't remember. I was nervous.
Q Understandably so. Was that the first time you had met the President, by the way?
A It was. And I remember one other topic of conversation. Kaki brought the President an early

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birthday present, which was a drawing of famous movie stars of like the '40s, and on the back of it they were identified, and so we all looked at it and were trying to guess -- identify who the different characters were.

Then the President spoke for a little bit about the movie "High Noon."

Q During this dinner, do you recall ever talking about Whitewater Development Corporation?

A It never came up.

Q It never came up. What about Madison Guaranty Savings & Loan Association?

A Never came up.

Q Capital Management Services?

A Never came up.

Q Did you talk about Arkansas at all?

A Not that I remember.

Q Not even with the Kaki Hockersmith and the President and First Lady?

A I have no recollection of that. I'm pretty sure it didn't come up.

Q Did you talk about the Whitewater hearings

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then progressing in the Senate Special Committee?

A No.

Q Now that I've got your attention focused on this particular date, do you recall if you went into any other room on the third floor besides room 323 and the sun room, and obviously your bedroom that night?

A No. I went -- after we ate dinner, everyone left and I went back, went straight back because I remember walking with Kaki and the President and they went to the elevator and I went back to our office to work.

Q And the records indicate that that night you spent in the room next door, 324. Is that consistent with your recollection?

A Yes.

Q And I take it you did not use the exercise room that night?

A No.

Q And you did not get a video from the book room?

A No. I didn't know there were videos in the

book room.
Q Well, next time you're at the White House -- and I understand there's no rental charges, either.
A I'll keep that in mind.
MR. IVEY: Although it could lead to another subpoena.
(Laughter.)
You might want to try Blockbuster.
BY MR. DINH:
Q Let me direct your attention now to Saturday, August 5. I've placed in front of you a record labeled S 020020.
A They have my name wrong on this. Feinstein, Iceberg, we're all the same.
MR. IVEY: What's the name on it?
THE WITNESS: Feinstein.
BY MR. DINH:
Q Let me direct your attention to the entry labeled "8:30." Do you recall having breakfast with Kaki Hockersmith that morning?
A Yes.

Q That indeed was you who is identified here as Barbara Feinstein?
A Yes.
Q That is a mistake, that should be Barbara Feinman?
A Yes.
Q And let me ask you specifically regarding that breakfast, did you and Ms. Hockersmith have any discussions of Whitewater Development Corporation?
A No.
Q Madison Guaranty Savings & Loan Association?
A No.
Q Capital Management?
A No.
Q Have you ever heard of a person named Seth Ward?
A Only in the last week from news accounts.
Q So I take it that Mr. Ward did not come up as a topic of conversation, then, either?
A No.
Q And let me direct your attention now -- I

take it after breakfast you went back to the book room or to room 323 in order to work on the book?
A Yes.
Q Do you remember if you went directly to room 323?
A I don't have a specific memory but I would have either gone back to my room or to the office to work, and I believe I went to our office to work.
Q You did not go into the book room, that is, 319A?
A No, absolutely not.
Q Let me direct your attention to the entry labeled "12:30."
A Yes.
Q Which is -- where it indicates that lunch was served for Mrs. Clinton, Barbara Feinman and Helen Dickey. Do you know who Helen Dickey is?
A Yes.
Q How did you come to know who Helen Dickey is?
A Helen Dickey was a young woman who I believe worked in the social office, that was my

understanding, and she came over and helped us out with some typing.
Q Do you recall if on this Saturday, August 5, was the first time Ms. Dickey came over to help you with typing, this is the first time -- this indicates that you had lunch served.
A I'm sorry, I don't remember the first time I met Helen or when she started doing some typing. It could have been around then.
Q And I take it that she worked in the same office that you and the First Lady did?
A Uh-huh, yes.
Q And I take it now that I've asked you this, but after lunch in the afternoon you did not go into the book room, that is, room 319A?
A I did not.
Q Let me direct your attention now to Sunday, August 6, which is the next day. This is the record labeled S 020021. Do you recall going to the White House that morning at 9:00?
A Yes.
Q Did you work in the office all that day?

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A Yes, I did.
Q And you had lunch brought up as the usual course?
A They always fed me.
Q And you left at 6:00 that night, as the record indicates?
A I remember leaving about that time.
Q And now that your attention is focused on that day, do you recall whether you entered the book room or exercise room that day?
A I definitely did not.
Q Let me direct your attention now to Monday, August 7. Do you recall coming into the White House at approximately 8:55, as the record which is labeled S 020022 that I have placed in front of you indicates?
A I don't remember that day specifically. That sounds -- I mean I was going over there most days around that time, and I would usually go in around 9:00 or 10:00.
Q Do you recall whether you entered the book room that day?

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A I did not.
Q The book room being 319A.
A I did not enter 319.
Q As is your usual course you stayed in 323, which is the office?
A Yes.
Q Let me direct your attention now to the exhibit labeled S 020023 and just to put it -- which is for Tuesday, August 8, the same log that we've been looking at. Let me just put it in context by telling you that this is what we -- actually scratch all of that.
A Okay.
Q Do you recall that day specifically coming into the White House at around 8:55, around the same time that you came in the day before?
A I do remember that day because our editor, Becky, also came that day and I remember we discussed whether or not we would meet before going over to the White House. She was coming down from New York. And I decided I had to get there earlier, so that makes sense with my memory then.

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Q And your editor being Rebecca Saletan?
A Yes, and her name is spelled incorrectly on this document.
Q At the 11:30 entry it is spelled as S-a-l-a-d-a-n. Can you give us the correct spelling?
A Yes. S-a-l-e-t-a-n.
Q Let me direct your attention to the 12:45 entry where it indicates that lunch was served for Ms. Feinman and Rebecca Saletan, properly spelled. Do you recall this particular lunch?
A I do.
Q Did you both take it in room 323 or did you take it in the solarium?
A In 323. The butlers brought our meals in on trays, I remember.
Q And was Mrs. Clinton working on the book at the time?
A She was there that day but she wasn't there while we were having lunch. I don't remember if we had seen her yet, but I remember she wasn't there during lunch. We were alone during lunch.
Q Let me focus your attention now to

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Ms. Saletan. Do you recall that day whether she entered the book room, that is, room 319A?
A I have no memory, and I am quite sure that Rebecca Saletan never entered the book room.
Q Did she stay with you most of the time in the office?
A We were either always in the office together or in the solarium or in our rooms.
Q Let me direct your attention now to the bottom of the page where it indicates that you and Ms. Saletan were guests at the White House that night overnight. Do you recall that both of you stayed overnight that night?
A Yes, I do remember that. I think they may have the rooms wrong, though. Let me see.
Q It indicates that you were in room 302 and Ms. Saletan was in room 303, which are --
A So they have me in this room and then they have Becky here.
Q In that room.
A I remember Becky being in one of these rooms, but I was -- it looks like these two rooms are

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connected?
Q Yes, I believe so.
A I was over -- that's not the room I was in. I was over, somewhere over here (indicating).
Q Indicating toward 301?
A Yes.
Q Did you recall it was a corner room?
A Yes.
Q Focusing your attention to your particular stay that night in room 301, and again, this is consistent with what you told us earlier, generally being moved down to the south end when there were a lot of house guests?
A Right.
Q As you look at the list, the house was rather full that night?
A Right.
Q On that particular night, did you have occasion to enter the book room for videos or books or anything like that?
A No, absolutely not.
Q And you did not have occasion to use the

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exercise room?
A No.
Q Do you recall if Ms. Saletan either had occasion to go into the book room or to the exercise room that night?
A I can't imagine any reason she would go in that room, and I have no memory of her going in that room.
Q Incidentally, did you ever get a tour of the White House at the beginning or something like that?
A No.
Q Let me direct your attention now to the next day. Do you recall going back to the office in order to work on the book in the morning from your bedroom? I'm sorry, I want to identify for the record -- this record as S 020024.
A I'm sorry, I was trying to remember the day. Could you repeat the question to me?
Q This is the very next morning after you spent the night in room -- in the corner room with Ms. Saletan. Do you recall waking up that morning

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and going to the office?
A This is what I recall. I recall having breakfast in the solarium with Becky, and there were some other guests, I don't know who they were, a man and two sons. And then Carolyn Huber took us out on the balcony of the solarium so that we could watch the helicopter departure.
Q And that indicates that that happened at approximately 8:58?
A Right. And then I remember Becky and I were antsy to get going on our work and then we went into the office and started to work.
Q And the record indicates that you came back to the solarium, you and Ms. Saletan came back to the solarium at around 1:00 for lunch. Is that consistent?
A I remember that, uh-huh.
Q Was it just you two?
A Yes.
Q Let me direct your attention back to the breakfast.
A Okay.

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Q Did -- at any time during the breakfast conversation, did you have a discussion about Whitewater Development Corporation?
A Absolutely not.
Q Madison Guaranty Savings & Loan?
A No.
Q Capital Management Services?
A No.
Q Seth Ward?
A No.
Q Pretty unusual breakfast conversation, I must admit, but I do want to be thorough.
A It would be. We were talking about our book deadline mostly.
Q Understandable. And much more normal. Let me direct your attention now to the exhibit labeled S 0200325. This record will look somewhat different from what you've been looking at. This is a handwritten log which at the top says "F-1 movement log." Let me represent to you that had -- has been -- that this has been produced to us by the White House and they represent -- that the Secret

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Service keeps at the ground floor right before the ground floor elevator when you enter at the ground floor. Do you recall seeing a Secret Service agent at that post when you walk in on the ground floor?

A Yes, absolutely. Right across from the elevator.

Q Do you usually check in with him and tell him your name?

A No, they never talked to me.

Q They never talked to you, okay.

A I couldn't even get a hello out of those guys.

MR. SPEARS: And they can't spell your name right, either.

THE WITNESS: And they can't spell my name right, either.

BY MR. DINH:

Q Let me direct your attention to, where your attention has already been directed, and ask you to take a look at that particular entry where it indicates Ms. Feinman, misspelled F-i-n-e-m-a-n. It indicates here -- let me just orient you by telling

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you this is Monday, August 14, 1995, which would be the day before the First Lady departed for Wyoming.

Do you recall this particular visit to the White House?

A I remember coming over the day before we left with my suitcase. Capricia told me if I brought it over, they could get it on to Air Force One for me.

Q I take it you went on Air Force One with the First Lady and the President to vacation in Wyoming?

A Yes.

Q And the record indicates that you came in at 1506 which is military time for 3:06 p.m. Is that consistent with your recollection, midafternoon sometime?

A I really have no memory of that day besides bringing my suitcase over. I don't remember how long I worked or -- I remember I put my suitcase down outside the office, that's what Capricia told me to do.

Q "Outside the office" being room 323?

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A Yes. And I remember being in there because when I came out I looked to see if my suitcase was gone and it was gone. So that's all I remember.
Q And I take it that during that time you did not enter room 319A?
A I did not.
Q You indicated that you rode on Air Force One with the President and Mrs. Clinton out to Wyoming. Did there come a time during that flight that there was any discussion of Whitewater Development Corporation that you can recall?
A I was not sitting with them. I was sitting with their staff back in the plane.
Q So you were not privy to any conversations that they may have been having?
A No, I did not. I was not privy to any conversations they were having.
Q Do you remember specifically what staff members you were sitting near?
A I sat next to the White House photographer, whose first name was Barbara.
Q And anybody else that you can remember?

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A Across the aisle was national security counsel Andrew -- Andrew, I can't remember his last name, I think it started with an S. Andrew something.
Q During this flight, did you have any conversation regarding Whitewater Development Corporation?
A I did not.
Q Madison Guaranty Savings & Loan Association?
A I did not.
Q Capital Management Services?
A I did not.
Q The Whitewater hearings then being conducted at the Senate?
A No, I did not.
Q Did you overhear any such conversations?
A No, I did not.
Q Do you know who Maggie Williams is?
A Yes, I do.
Q Do you know her by sight?
A Yes, I do.

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Q Do you recall seeing her at any time in room 319A, in the book room?
A I do not.
Q Did you see her at any time while you were there on the third floor?
A I have one vague recollection of Maggie coming up to see Mrs. Clinton in her office. I don't remember when. And I saw her one day on the second floor of the residence when I was there with Capricia, Mrs. Clinton and Maggie. I think it was after some White House event on the lawn.
Q With respect to the one time that you saw Ms. Williams come up to the office to see Mrs. Clinton, do you recall if she was alone or with somebody else?
A I don't remember, I'm sorry.
Q Other than the three occasions on which you had occasion to pass through or enter the book room that we've already talked about, did you, while you were working on the third floor in room 323, specifically witness any person entering the book room that you can recall?

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A I have vague recollections of Capricia going in and out of that room, and the cleaning staff.
MR. SPEARS: You might also -- April, April was somebody you saw in that room.
THE WITNESS: Right.
MR. DINH: But we've already eliminated that.
BY MR. DINH:
Q Incidentally, you indicated you do not remember April's last name?
A Right.
Q Do you recall approximately where she worked?
A I recall now because I saw her name on one of the logs that you showed me, and I think it was Springfield.
Q April Springfield. That's consistent with your memory?
A Yes.
Q Do you know, does she work in the White House?

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A It was my understanding she was an intern in the social office, and that Helen had recommended that April might do some typing.
Q Let me direct your attention now to what has been marked DKSN 028928 through DKSN 029043 and let me describe it generally for the record. They are a stack of photocopies of what appears to be computer printouts. They measure approximately 11 inches by 17 inches and the stack is approximately 1 inch thick and interspersed in between are photocopies of some 8-1/2-by-11 pages. And the photocopies, some are in color, some are in black and white and the color ones reflect some red handwriting throughout. I'll ask you to study that for a moment.
(Witness reviewed the document.)
BY MR. DINH:
Q Have you ever seen these records before?
A No, never.
Q Have you seen any records similar to these before?
A No.

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Q By "similar," I mean something measuring 11 by 17 with photocopies of computer printouts.
A No, never.
Q And I take it you have not seen them in the White House?
A No, never.
Q And I take it you have not seen them in room 323?
A Never.
Q Nor did you see them in room 319A?
A No, I did not.
Q Have you had any discussions that you can recall of Rose Law Firm billing records?
A Do you mean in the White House with people or do you mean with my sister, what we saw on the news last night?
Q Let me just start with a specific. In the White House.
A No.
Q At any time while you were in the White House?
A Let me think for a minute to make sure

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because I believe the answer is no.
(Pause.)
I never had any discussions about any billing records in the White House. There was one occasion where the construction workers, who were there the entire summer making a lot of noise, broke through some plaster and I believe Capricia came and unlocked a closet in the office where we were working, Mrs. Clinton and I were working, and I think that there was some plaster or something and Capricia was annoyed and she relocked the door.
And I have a vague recollection of somebody telling me that that was the closet in which there were some records that had been publicized, that someone had put back in there or something. I don't remember the details, but that something had been publicized, so that is my only recollection of documents ever being discussed.
MR. IVEY: Can you read back that answer.
(The reporter read the record as requested.)
BY MR. DINH:
Q Let me direct your attention to this one

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particular occasion that you have told us briefly about and I'm probably going to take you through it a little bit more slowly.
A Right.
Q You said Capricia Marshall came in, talking about some plaster falling. Do you recall whether she was mentioning specific areas that it was falling?
A There was just a ton of banging, you could hear horrible noises going on right above where I was working.
Q And you were working at that time in room 323?
A Right.
Q And Ms. Marshall came in and said plaster is falling?
A She didn't say that. We just heard all these noises. She unlocked the door because she could hear -- it sounded like there was something going on.
Q Did any plaster fall in the office while you were there?

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A No, no.
Q So you were working in the office and Ms. Marshall came in?
A Right.
Q And said plaster falling or something?
A She said something. There was a lot of noise going on, and you could hear banging and I think you could hear, like, stuff crumbling.
Q And she went to the closet and opened up the closet?
A Right. And it looked like there was stuff coming down.
Q There was stuff coming down in the closet?
A Right, yeah.
Q Before she opened the door you didn't see any stuff coming down?
A No, but you could hear really loud banging and all kinds of stuff going on.
Q Now, so there was stuff falling down. Do you recall what it was falling down on?
A No.
Q Were they boxes that you can recall?

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A I don't remember.
Q Did Ms. Marshall make any attempt in order to clean up the plaster?
A She just was annoyed and I think she went and told them to be more careful.
Q But she did not -- at that particular time, she did not try to clean it up?
A She didn't rearrange or touch anything or clean anything up.
Q She opened up the door in order to see that there indeed was plaster falling into the closet?
A Right.
Q And then she immediately closed the door?
A Right, and locked it back up.
Q Do you recall approximately how long was the period of time when the door -- when the closet door was open?
A A minute.
Q A minute, okay. Do you recall, if I can focus your attention, do you recall where Ms. Marshall had the key to the closet?
A Where she kept it you mean?

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Q Yes.
A No. It was just on her.
Q It was on her?
A Yes.
Q Did she go to any -- to Mrs. Clinton's desk, for example, in order to get a key?
A I don't remember.
Q She came in the door and then went straight for the closet and unlocked it?
A I think. I have a very vague recollection of it. I just remember there was a lot of banging and noise.
Q And she did not, I take it, go to your desk in order to look in one of the drawers and get out a key?
A I have no memory of whether she went for a key or had a key on her.
Q But she just had a key and opened it up?
A Yeah.
Q Let me direct your attention now to the diagram that has been previously labeled Exhibit Feinman 1. And, again, you've marked your desk as

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"Y" there. Do you recall if that closet, where I'm pointing my pen now, indicating the closet with the door, 359?
A Right.
Q Now, let me ask you to focus a little bit and ask you whether you can give me a time frame that this occurrence happened.
A Sometime in July or August. I just don't remember.
Q Late July?
A I have no memory of when it was.
Q Let me ask you now with respect to the comments that were made after the closet door was closed.
A Right.
Q Actually, let me back up a little bit. Was Mrs. Clinton in the room at the time?
A No.
Q You were alone in the room?
A Yes.
Q Was anybody else in the office?
A I was alone.

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Q You were alone?
A Right.
Q Then she closed it back up. What did Ms. Marshall do?
A It was my impression that she went to tell them to be more careful and to not knock out walls.
Q Understandably. So she walked out the door?
A Yes.
Q Did she say anything to you?
A I don't think so, just -- if she did, it was just about that they weren't being careful.
Q Now, during your initial answer you said somebody told me that it was the closet in which some records were kept, and you were unclear. Can you tell me who "somebody" is?
A I can't remember and I can't remember when it was. I just know that I had a memory of somebody telling me that that was the closet that some records were put into, that had been publicized, that had been on the news.
Q Was it approximately close to the event?

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By "the event," I mean to -- when Ms. Marshall came into the room, opened up the closet and exited.
A I just don't remember. I just remember that I knew that then.
Q You knew that when Ms. Marshall came in?
A Yes.
Q So somebody told you before Ms. Marshall came in the room, opened up the closet and walked back out that it was the closet in which some things were put in there and removed?
A Right.
Q And by this general "thing," some files had been put in and removed and publicized, do you remember whether it was the box of personal files from White House Deputy Counsel Vince Foster's office on the night of his death?
A I just don't remember what it was.
Q You just heard there were some records that were put in there and then removed and this had been publicized?
A Right.
Q So the comment that somebody told you, this

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is the famous closet or something to that effect?
A Yeah, something like that.
Q Or infamous, depending on one's perspective.
Other than this one occasion, did you have any other discussions about the records that you can recall?
A No. And that was my point. That is the only time that it ever came up, "it" being any kind of records or documents or anything.
Q Now I asked my original questions limited to geography. Do you have any recollection of having any discussions in the White House? Let me expand that a little bit further and ask you whether you had any discussions anywhere with any person who works for the White House or Mrs. Clinton about Rose Law Firm billing records.
A No.
Q Did you overhear any such conversations?
A No.
Q And I take it you had no conversations with Mrs. Clinton regarding Rose Law Firm billing records?

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A No.
Q Let me ask you, let me walk you through a list of persons and ask you if you know any of them. Do you know who Mary Ann Delarives is?
A No.
Q Do you know who Steven Gordon is?
A There's a Steven who is the assistant to the President who I met out in Jackson. I don't know a last name.
Q This is the person who sat next to you on the plane?
A No, that was an NSC person across the aisle, Andrew.
Q I'm sorry. Do you know who Bill Knapp is?
A No.
Q Do you know who Ian McWilliams is?
A No.
Q Tom Oaks?
A No.
Q Do you know who Mark Paris is?
A No.
Q Do you know who Lisa Perez is?

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A No.
Q Do you know who Billy Perry is?
A No.
Q And you stated before that you do know who April Springfield is?
A If April is the intern.
Q In the social office?
A In the social office. And that sounds like the name that I remember.
Q I think that's consistent with the prior testimony that we have before us also.
A Okay.
Q Do you know who Sheila Martin Stone is?
A No.
Q Do you know who Elena Torika is?
A No.
Q Other than the one time that you testified that you saw Mrs. Clinton in the exercise room when you came in through the book room, did you have occasion to witness other times when Mrs. Clinton was in the exercise room?
A I never went into the room and saw her in

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the exercise room besides that time, but I knew that sometimes she was in that room exercising.
Q While you were working in the office?
A While I was working or she would come into our office and she had been exercising.
Q Is the door to room 319A to which I'm directing my pen now, is that door generally kept closed, if you can recall?
A I think it is, it is.
MR. DINH: I have no further questions. Thank you very much for your time.
THE WITNESS: Thank you. Thank you, Carmen.

EXAMINATION

BY MR. IVEY:

Q I have a couple of follow-up questions. I might skip around, but I'm not going to need to go through everything the way Mr. Dinh did. I just want to focus on a couple of areas and then we can wrap it up.
I want to go back to your conversation about the closet and 323, the office that you used.

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And I want to see if I can jog your memory at all. When you first started -- when you first started working at the White House in February of 1995, did you wear a coat typically?

A Yeah.

Q Where did you put your coat?

A Well, in February of '95 I was usually meeting with Mrs. Clinton in the map room or in one of her offices, so I would just put it on a chair, just take it off and put it on a chair.

Q By the time you started working in 323 -- what point was that?

A That was in late May or early June.

Q When you first started using that room, do you recall any conversations about the closet at that point?

A No.

Q What's in there, anything like that?

A No.

Q Never came up that you can recall?

A Never came up.

Q Do you think it might have been -- well,

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let's see if we can back into it.

You said that before this event you described with the plaster falling and Capricia Marshall being upset, that you had heard something about the closet, that there was some records that were in there, so I take it it would be sometime between when you first started working in the office in May and July or so when this --

A It was sometime probably when I started working in that office, sometime in the beginning or maybe in the middle. I just don't remember. And it was just a comment someone made and I just don't remember who it was. I just remember vaguely somebody saying something about it.

Q Do you remember who sort of oriented you to that room, who took you up there first?

A Capricia.

Q Capricia Marshall?

A Yes.

Q Do you think she might have been the one that made the comment?

A I just don't remember, I honestly don't, of

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who it was.
Q Do you recall why it is that the comment sort of stuck with you? You seem to have a good memory about a lot of things, but why this comment in particular stayed with you? Or was there anything in particular about it that stands out in your mind?
A Just that it was a closet that had been written about in the newspaper, so --
Q Had you ever seen any stories about it in the newspaper?
A I had seen mentions of it.
Q Do you recall the context of what was mentioned about it?
A No.
Q And you think it might have been in the late spring or early summer of 1995?
A Yes.
Q Do you read a lot of different newspapers or one?
A I read a lot of different newspapers.
Q Washington Post?
A The Washington Post; sometimes I read The

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New York Times.
MR. DINH: And I take it whatever paper that was carrying your particular story for that day?
(Laughter.)
MR. IVEY:
Q Did you see Ms. Huber up in that area frequently during the summer of 1995?
A Not frequently. Occasionally.
Q Would she come into 323?
A I only remember seeing her come into 323 a couple of times.
Q Why did she come?
A To speak to Mrs. Clinton.
Q And she didn't stay long?
A She didn't stay long, no.
Q Did you ever see her in 319A, the book room?
A No. I don't have any memory of seeing her. I was usually in Mrs. Clinton's office and the door was closed, so I wouldn't see people going in and out.

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Q And I take it you worked fairly closely with Mrs. Clinton and Capricia Marshall when you were working on the book during this period of 1995?
A With Mrs. Clinton.
Q Did you see Capricia Marshall on most of the days that you were there as well?
A Yes, yeah.
Q Did you get any sense from working with them in July and August of 1995 that there was anything conspiratorial going on?
A Absolutely not.
Q It just seemed like regular behavior patterns?
A It was a nice, pleasant atmosphere.
Q Were you present when construction work was done in the closet in 323?
A No.
Q Are you aware that any work was done in that closet?
A I'm not aware of any work being done in there.
Q Did the subject of the records in the

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closet in 323 ever come up again?
A No.
Q Did Ms. Marshall mention anything about it?
A No, no.
Q Did you get the sense that Ms. Marshall was hiding anything in the closet?
A Absolutely not.
Q And you said that Mrs. Clinton wasn't present when this --
A She wasn't present.
Q -- took place. Now, you also were asked about the key to the closet door.
A Right.
Q And I think your testimony was that it seemed to you that Ms. Marshall had the key with her, she didn't have to go get the key?
A Yeah, but I -- I can't answer that with any degree of certainty. I just remember she opened the closet up and they were banging away.
Q To hop around a bit here, I wanted to ask a question about the printout you said that you were waiting for one night.

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A In late September, right.
Q What was printing? What type of paper was printing out?
A A chapter of the book.
Q Was it on 8-1/2-by-11 paper?
A Yes.
Q And where was this computer, or the printer?
A The printer was on the desk as well, I believe.
Q The desk in which room?
A In 319.
Q The book room?
A In the book room.
Q 319A?
A Yes.
Q Do you know if that printer had been there previously?
A It was the first time I --
Q First time you'd noticed it?
A Yeah. Since I hadn't been in that room since early June, I don't know when they put the

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printer in there.
Q Were there other people who were assisting with the book or assisting Mrs. Clinton in some way other than Capricia Marshall working or spending time in the book room during the July and August 1995 period?
MR. SPEARS: Book room, excuse me, being 319A?
MR. IVEY: 319A.
THE WITNESS: I'm not sure I understand the question. Were there other people who were in that room --
BY MR. IVEY:
Q During July or August of 1995.
A During July and August of 1995, nobody was working in that room that I know of on the book or anything else. I just saw cleaning staff going in and out.
Q Do you recall any point at which Ms. Marshall was trying to clean out the closet in 323?
A No. The only time I ever saw that door

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open was when the construction workers started making the plaster come apart.
Q Did you know a man named Freemyer who was supervising --
A Is that one of the ushers?
Q Yes.
A What's his first name?
Q Dennis.
A He's got sort of strawberry blonde --
MR. DINH: Yes. He has a mustache.
THE WITNESS: Yes.
BY MR. IVEY:
Q Did he ever talk to you about any of the work being done in that section of the White House?
A The construction work?
Q Right. Did you ever ask him when is this going to end or what are you guys doing up in the attic or anything like that?
A No. The only time I had any reason to talk to the ushers about the construction work is one day they had a circuit -- they hit a circuit breaker and I lost what I was working on on the computer, we lost

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all the power.
Q I'm sure that was a spirited conversation.
A Called the usher's office and asked them if they could come up and see me and get someone to come help me with the computer to see if we could retrieve the unsaved work.
Q Do you remember about when that was?
A Late July maybe. I don't know.
Q Do you recall anything else connected with the closet in 323?
A Absolutely not.
MR. IVEY: I think that's it for me.
EXAMINATION
BY MR. DINH:
Q I just have one question. Do you recall what kind of printer that was? Was it a laser printer? This is in September of 1995.
A I believe it was a laser printer.
Q It was coming out fairly fast?
A Right.
Q As you were there?
A Right.

MR. DINH: That's all I have. Thank you very much for your time.

(Whereupon, at 11:16 a.m., the deposition was concluded.)

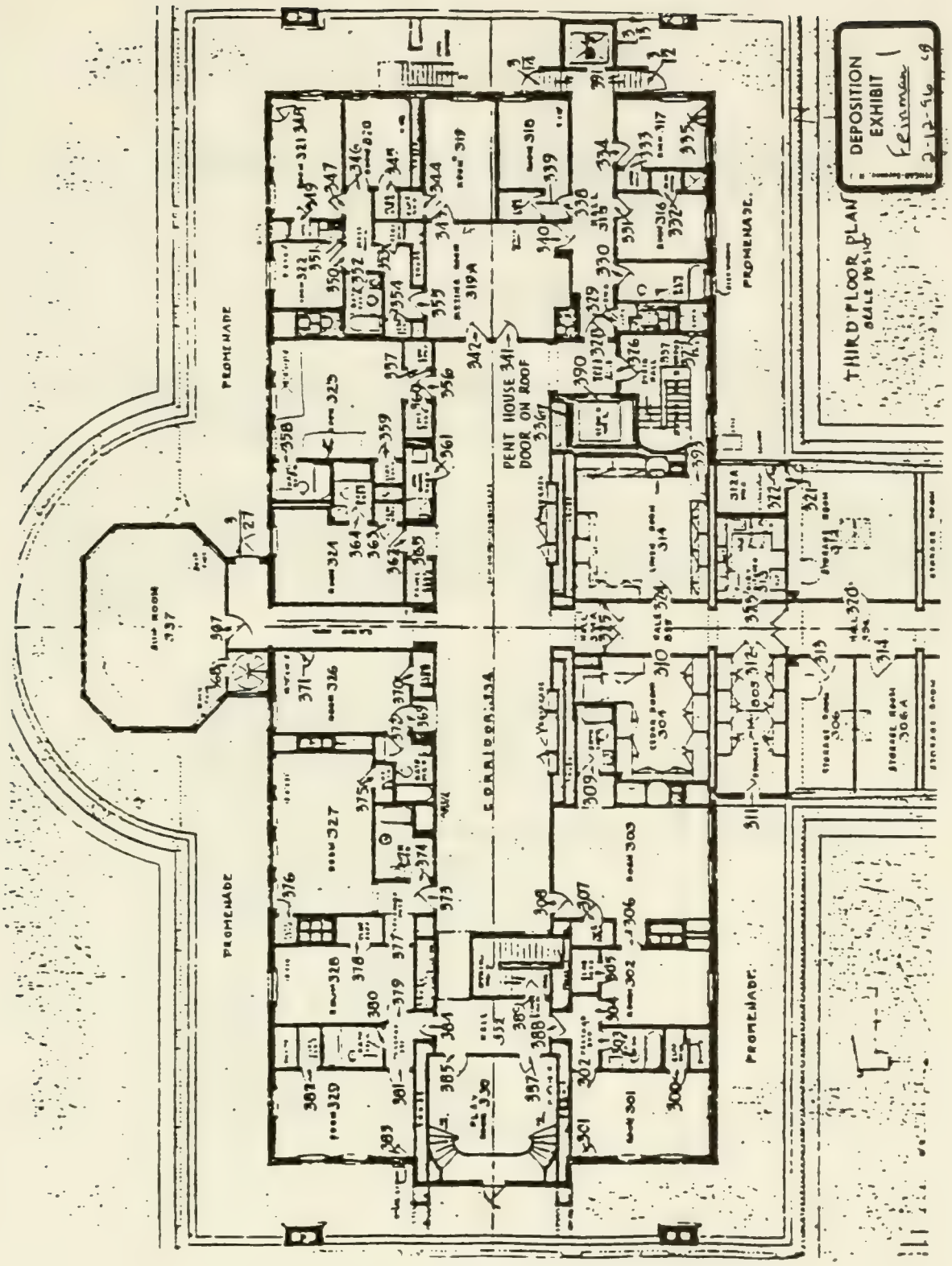
BARBARA L. FEINMAN

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998


DEPOSITION EXHIBIT
THIRD FLOOR PLAN
PROMENADE
PROMENADE
PROMENADE
PROMENADE
PENT HOUSE 341
DOOR ON ROOF
STORAGE ROOM 306A

DEPOSITION OF MARK D. GEARAN
IN RE: S. RES. 120

MONDAY, FEBRUARY 12, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MARK D. GEARAN, called for examination pursuant to notice of deposition, at 5:30 p.m. in Room 640–A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ALICE S. FISHER, ESQ.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, ESQ.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

JUSTIN D. SIMON, ESQ.
ELAINE METLIN, ESQ.
Dickstein, Shapiro & Morin
2101 L Street, NW
Washington, DC 20037
On behalf of the Deponent.

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PROCEEDINGS

MS. FISHER: This deposition is going to be conducted pursuant to Senate Resolution 120, which establishes a Special Committee administered by the Banking Committee to conduct an investigation into Whitewater and other related matters, Madison, Capital Management, et cetera. Section 1(b)(2) of Senate Resolution 120 authorizes an investigation and public hearings into several issues, which your notes kind of span, but generally the focus is on 1(b), I believe.

This deposition is going to be held in advance of public hearings which are ongoing. I informed your counsel that it is very possible that you may be called to testify shortly at the public hearing and possibly on Thursday. If you want a transcript of the deposition, we can provide that to you as soon as it is ready, given that your hearing is going to come up so quickly.

I will ask you a series of questions and ask that you testify under oath. If you don't understand a question, let me know. If you want a

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break, let me know. She will prepare a set of questions and answers and the deposition will be treated as committee confidential until the commencement of public hearings. Your hearing -- portions of it could be asked at the hearing.

I see that you are represented by counsel. If you want to state an appearance for the record.

MR. SIMON: Certainly. My name is Justin D. Simon. I am a member of Dickstein, Shapiro & Morin in Washington, D.C.

MS. METLIN: My name is Elaine Metlin. I am also with Dickstein, Shapiro & Morin. I am also here on behalf of Mr. Gearan.

MR. SIMON: I have one question with regard to the transcript. We would appreciate getting a copy of it as soon as it is possible, if you are still thinking about Thursday.

MR. KRAVITZ: Maybe what makes the most sense, I assume, Alice, that the transcript is being ordered at the fastest possible rate, and maybe if Mr. Simon wants to send a messenger over tomorrow.

MS. FISHER: That would be fine.

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MR. KRAVITZ: Call and make sure it is ready and then a messenger can pick it up.
MS. FISHER: Call 224-0558, and somebody there can help you and bring it down.
MR. SIMON: Okay.
MS. FISHER: If you want to submit an errata sheet prior to Thursday, feel free to do that.
MR. SIMON: Thank you.
MS. FISHER: Your objections to questions will be noted for the record. You can object on the grounds of privilege or irrelevance, and any objections on the grounds of relevance can be ruled upon by the Chairman.
My name is Alice Fisher. I am the deputy special counsel for the Majority. To my left is Jennifer Schwartz, who is also on the Majority staff, and to her left is Neal Kravitz, who is deputy special counsel for the Majority.
Whereupon,
MARK D. GEARAN
was called as a witness and, having first been duly

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sworn, was examined and testified as follows:
EXAMINATION
BY MS. FISHER:
Q State your name.
A Mark D. Gearan.
MR. SIMON: If I may make a brief statement. For the record, Mr. Gearan is appearing here voluntarily and on rather short notice.
MS. FISHER: Yes. We appreciate that, very much so. Thank you for being so flexible.
MR. SIMON: The one thing I wanted to make clear is he has really not had an opportunity since he has been, shall we say, hitting the ground running at the Peace Corps since he came had an opportunity to revisit this subject, either before or after your invitation to come down today. I do want to say at the beginning he will endeavor to use his best efforts but to understand that we are sort of catching him with a relatively minimal amount of opportunity to refresh his recollection about the broader contest of this inquiry.
MS. FISHER: Okay. I understand that. I

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appreciate that fact.
MR. SIMON: Thank you.
MS. FISHER: If you want to consult with your counsel at any time, please do so, to bring things into context. I will try to help you where I can.
BY MS. FISHER:

Q Your employment position between January 1993 and the present, if you could go through your history.
A From January 20th, 1993, I became a member of the President's staff at the White House, first as the deputy chief of staff and then in the late spring and May and June of that year as director of communications at the White House, a position I held until August of 1995, where I was nominated and confirmed by the Senate as the director of the Peace Corps, a position I hold at this moment.
Q While you were director of communications at the White House, who did you report to?

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A I reported to David Gergen in that capacity while he was at the White House. The last -- when David left the White House, to Leon Panetta, who is the chief of staff to the President.
Q Could you describe for me what the division of labor was basically between you and Mr. Gergen.
A Sure. David's position when he came to the White House was counselor to the President, which involved, among other things, the communications, the communications department, generally the portfolio of that. I was the director of the communications department, which at that point included the speechwriting office, the research office, news analysis and the press office.
So that was my portfolio. But the chain of command, as I said, was that I reported to Mr. Gergen.
Q Who reported to you?
A There were deputy communications directors who reported to me as well as for a period of time in that position the press office, the press secretary.
Q Who were the deputies, if you can recall.

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A David Dreyer was a deputy communications director. During the whole course of that time the head of the speechwriting office, Don Bahr, was within the communications office. The press secretary was Dee Dee Myers, although in December of 1994, that position reported then directly to the chief of staff. We changed the communications department, where the press office was broken out of the communications office, if you will.

Q That was when? '94?

A That was December of '94.

Q Okay.

A And then the news analysis and the research office were not deputy positions.

Q As far as press statements that went out, did you have the final review of those statements?

A For many of them, I did. There were many perfunctory statements that went out without my review that would have been approved by Dee Dee Myers. It was not necessary for me to review. Anything with my name on it I would review. The bulk of them were issued by the press secretary, and I

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would review them, but it depended on the topic or the subject matter.

Q In August of 1995, when you left the White House, what were the circumstances in which you left the White House?

A In my job, you mean?

Q Yes. It is a question I have to ask. I understand you went on to do great things and you will do great things with the Peace Corps.

A I was quite honored by the President's nomination and very honored by the Senate confirmation to head up the Peace Corps.

Q Was it something that you sought?

A Yes.

Q I was aware that Carol Bellamy, the previous Peace Corps director, was leaving, and made my interest known to the President's staff.

Q About when was that?

A It was in the June-July period.

Q Of '95?

A Of '95.

Q Your counsel has told me that you have made

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various responses to document requests over the years, and I don't want to get into the details of those, but I do want to ask you whether you know, have all responsive documents that you are aware of been produced to the Committee or did someone else search your documents to make productions to the Committee, or if you could just tell me how?

MR. SIMON: I think Mr. Gearan is somewhat at a disadvantage on this, because as far as we know, all of Mr. Gearan's responsive documents to requests of this committee have been produced to White House counsel.

We frankly don't know and didn't know even as late as last Thursday what documents were being produced by White House counsel to the Committee. But I know they have been in extensive discussions with the Committee. But as far as we know, we can't tell you that, honestly.

BY MS. FISHER:

Q I want to get the facts of what your knowledge is. Basically, when you left the White House in August, did you leave your documents there

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for them to review for any subpoenas?

A My understanding was when I left the White House that the responsibility for the production of the documents would be with the White House counsel's office.

Q Did you take any documents with you?

A Documents for production?

Q Did you take any of your personal documents with you that may have been responsive to later subpoenas?

A Well, it was certainly my intention to have these communications office files remain at the White House. That was my intention. As it has been represented to the Committee, those were inadvertently moved to the Peace Corps with other personal effects in boxes. When I was made aware of that, they were returned to the White House, and the White House counsel was so notified.

Q How did you become aware that you had taken documents?

MR. KRAVITZ: Counsel --

MR. SIMON: Part of this I can elaborate on

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because he doesn't know the context of the request, and then he can fill it in so you have a complete picture.

BY MS. FISHER:

Q Since you left the White House, were you ever notified of the Senate subpoena to the White House, the Senate committee subpoena? Has anyone contacted -- we sent a request in August and then we sent a subpoena in October. Were you ever notified of that?

MR. SIMON: We received -- we were not formally notified of the subpoena, because I believe White House counsel, after discussions with us, were under the impression that all of Mr. Gearan's documents were records management.

They had said under those circumstances since he was no longer a White House employee that they would take responsibility for the production of documents from the communications office files, which Mr. Gearan had maintained in his office. It was not until later when we discovered some of those documents had been in fact delivered over to the

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Peace Corps that that became an issue. Up to that point, we did not believe we had any documents.

BY MS. FISHER:

Q How did you become aware that you had documents that were responsive to the Senate subpoena?

A Well, when I was called by my counsel that there was -- the end of October, that period of time -- a request, another request, I checked through the area, the storage area where boxes came over from the White House and were stored at the Peace Corps.

I discovered at that point that the box of the segregated files that I had, the communications office files I had segregated for purposes of prior productions and files, that it was inadvertently taken to the Peace Corps, at which point I instructed my assistant to return them to the White House. That was not done.

Q By your assistant?

A By my assistant. I assumed that was done.

The next point in time where this came to my attention was the end of January, January 31st, I

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believe, where there was -- in conversations with my counsel, who had been talking to the White House counsel, they had indicated to my counsel that they were having difficulty finding my files at the White House, which of course we found surprising, at which point I went back to the area where they were stored and found that they had not been returned as I had thought.

So, I called counsel and we immediately returned them to the White House counsel, and I did not go through them, as I was not sure of any of the subpoenas that might have happened during this period of time when I was not responsible for production and thought it best in the interest of time and urgency to obviously get them back to the White House.

It is reflective of my first four or five months on the job where I tried to come into the Peace Corps and learn the agency and take over. I have had an extraordinary time involving travel to Poland and Paraguay and Botswana and Swaziland and South Africa and nationally to Boston, New York and Battle Creek. It has been an extraordinary time. It

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has resulted in I never went through any of the boxes that came back to the White House.

Last week we had Sergeant Shriver, the first director of the Peace Corps, over to the headquarters for his 80th birthday. In advance of that, I realized I had nothing on the walls in my office, which looked rather strange, I thought. At that point I decided I wanted to put something up on the walls. That's not where I came across it, but my only relevance is --

MR. KRAVITZ: He put his notes up on his walls.

THE WITNESS: That's the extent of my life. But that is longer than your question, for which I apologize.

BY MS. FISHER:

Q That's fine. Other than your counsel, did you speak to anyone prior to your deposition today about your deposition?

A No.

Q In late 1993, say, September '93 until early '94, could you explain for me what your

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responsibilities were with regard to Whitewater issues?
A I'm sorry. The time line again?
Q Late 1993, starting September 1993, August-September '93 until early '94.
A Okay. That period of time I was the director of communications at the White House. My involvement to the issues was to receive reporters' inquiries with specific questions and to then review them with Bruce Lindsey, an assistant to the President, who as an Arkansan and someone who I view to be as the Arkansas knowledgeable person within the White House. The bulk of my effort was to list the reporter questions initially as almost a preview to the questions for Mr. Lindsey so he would know what the reporters were asking.
Very quickly, because of the complexity of this issue, reporters then would call Mr. Lindsey directly, and I was less and less the initial point of contact for the press.
So, it was increasingly localized to Mr. Lindsey, which is a system that we found helpful

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on other issues within the White House. On health care, we would have a health care spokesperson. On NAFTA, we would have someone who had the lead. Particularly with complex issues, so the reporters could go into the kind of depth they would want to with a spokesperson. So, Mr. Lindsey quickly became that.
Q Was there anyone other than Mr. Lindsey who was someone that you had regular contact with regarding these matters?
A No. He was the one person within the White House who had a background and knowledge of the issues. I don't think anyone was as aware.
Q If Mr. Lindsey wasn't around, was there someone else that you would go to?
A I don't think so. About Whitewater, generally no.
Q Did you have any regular contact with individuals from the White House counsel's office regarding these issues?
A Regarding the Whitewater issues?
Q Yes, Whitewater, Madison, Capital

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Management.
MR. SIMON: What point in time?
MS. FISHER: Late '93, early '94 time period.
THE WITNESS: No, I don't recall a conversation with the counsel's office on the specifics of those questions. Towards the end of 1993, that was the period you were talking, in December, when we issued a statement from the White House on when the President turned over the documents to the Department of Justice, there was a statement at the end of December, right before Christmas. I recall that statement was drafted, I believe, by the counsel's office. I did speak with Mr. Klein and I believe Mr. Nussbaum at the time. But the principal -- my principal contact was Mr. Lindsey.
BY MS. FISHER:
Q To your knowledge, would members of the press office or the communications office ask questions of members of the White House counsel's office in regard to how to respond to certain inquiries?

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A You mean in a generic way?
Q Yes, generally speaking.
A I think it would not be uncommon. I can't give you any specific instance. If there was guidance needed on how to answer any legal matter, apart from Whitewater and the President's nomination to the Supreme Court, other legal issues, it is not uncommon for anyone in a spokesperson capacity to meet and visit with one of the staff members who is expert on it. You would meet with the National Security Council staff on a foreign affairs issue, in that sense. I'm not sure if that is your thread.
Q Let me say a hypothetical. It may well have happened all the time. I just don't know.
If there was a press inquiry that came into the press office, not directly to you, maybe, but to someone in the press office, and it wasn't a legal matter but it was something they needed factual information on, something relating to Whitewater or Madison, not necessarily giving legal advice but just a factual inquiry, would the members of the press office at any time go to a member of the White House

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counsel's office to ask them to answer the question for them or to help them gather facts to answer the question for them?

A I doubt it. They would be best to ask Mr. Lindsey. I certainly would have.

Q You don't recall any instance where you would have gone to someone in the White House counsel's office, Mr. Nussbaum, Mr. Klein, Mr. Eggleston, to ask them to gather factual information for you in responding to press-related questions on Madison or Whitewater?

MR. SIMON: Just so that it is clear, because I think, as you are aware, there is some White House counsel participation in discussions that take place at a later point in time as opposed to the earlier -- your time period sort of spans two different periods.

BY MS. FISHER:

Q Why don't we just take August to September '93, prior to the subpoena being issued.

A Which subpoena?

Q The turning over of documents in '93.

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Would that help?

A Yes. I don't recall that period of involvement. As I said, it was principally -- my dealings would be principally with Mr. Lindsey.

Q So, do you have any recollection of anyone in the press office requesting the White House counsel's office to prepare chronologies of events, for example?

MR. KRAVITZ: What time period?

MS. FISHER: In the same time period.

THE WITNESS: In that period? I don't recall that. I recall it at a later period, a chronology being prepared at the beginning of January.

BY MS. FISHER:

Q By Mr. Eggleston?

A I believe that is it. But I don't recall in that time period.

Q Other than Mr. Lindsey, in the early stages of, say, August, September, October of 1993, do you recall discussing these Whitewater issues with anyone else?

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A No. Frankly, I would have put a lot of this later into October than that. I don't have a recollection of the issues until I would place it later in my own memory, into October, later October, in that period of time.

But you mean beyond Mr. Lindsey that I would have had conversations with. As I said, I would not have put it until later October.

Q When the issue started coming to the forefront, who other than Mr. Lindsey would you have had contact with regarding Whitewater, Madison in, let's take the period up until December 1993 again?

MR. SIMON: You are excluding for these purposes the testimony of Mr. Gearan regarding the meeting he had on October 14?

MS. FISHER: Yes.

BY MS. FISHER:

Q I have no intention of rehashing your testimony with regard to the October 14 meeting.

MR. KRAVITZ: Are you including matters relating to David Hale when you say "these Whitewater matters"?

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MS. FISHER: I believe I did say Capital Management. I do mean David Hale.

MR. SIMON: Did you understand it that way?

THE WITNESS: The question is did I talk to anyone beyond Bruce Lindsey?

BY MS. FISHER:

Q Yes.

A I don't recall. I may have with Mr. Gergen, who, as I said, I reported to, but I don't recall.

Again, my typical form at this point would be to receive incoming press inquiries and to list the questions down and then talk to Mr. Lindsey as to whether he was going to call the reporter back or how we were going to handle it. That's how I recall the bulk of my activity for that period of time.

Q Turning to specifics, I want to show you a copy of notes that have been produced to the Committee that are marked S 020292 to S 20310, and ask you if these are your notes.

A Yes, these are my handwriting.

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MR. SIMON: Please look through the whole thing, because she is asking you to identify the entire document.

(Witness examined the document.)

THE WITNESS: Yes, these are my notes.

BY MS. FISHER:

Q Do you recall the circumstances of taking down these notes? Was it a meeting?

A I recall a meeting where Jeff Gerth, who is a New York Times reporter, came and reviewed all of this information with Bruce Lindsey and myself at the White House.

Q Was anyone else present at the meeting?

A No, I don't believe so.

Q Was Mr. Gergen at the meeting for the beginning and then left at some point?

A He may have been. I don't recall that.

Q Do you recall who called you to the meeting?

A I don't recall how the appointment was set up, whether I did it or Bruce Lindsey did it or how it was set up.

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Q Now, I realize your notes aren't dated. Mr. Lindsey has produced to the Committee notes of this meeting as well that are dated September 20, 1993. Is that consistent with your recollection?

A It is not, no.

Q Do you have any reason to dispute that it wasn't at that time?

A No, I have no reason to --

Q I can tell you that the notes pretty much match. They go along the same subjects.

MR. SIMON: I think, as Mr. Gearan was trying to indicate before, he would have put this meeting later. He has no reason to dispute Mr. Lindsey's putting this meeting as of the 20th.

THE WITNESS: These are my notes. If they are similar to Mr. Lindsey's for that date, I have no reason to dispute that.

MR. KRAVITZ: I actually read both sets of notes this afternoon right next to each other, and they are strikingly similar. It would be very surprising to me if these notes were of two different meetings.

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THE WITNESS: My memory would have put it later in October. But the White House schedule is --

MR. SIMON: He does remember the meeting.

BY MS. FISHER:

Q Do you recall how long the meeting lasted?

A I don't. By virtue of the notes, it would seem like it must have been 30 to 45 minutes, but I don't remember.

Q Do you recall whether you knew about the general subject matter of the meeting prior to attending the meeting?

A No, I don't remember.

Q Do you remember any discussions with Mr. Lindsey prior to the meeting?

A No.

Q Can you generally describe what you recollect about the meeting independent from your notes?

A Sure. It was in my office, as I recall, in the west wing of the White House. I don't believe I had ever met Mr. Gerth before, but he did detail this entire notes as recorded here and then asked for

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the -- asked the questions at the end of this. It was extremely complicated to me then, frankly, as it is today to me.

But my recollection is of him going through this and then stating the questions at the end, which was a fairly common process. The reporter would provide the information and he details, obviously, all the conversations he has had and then the questions at the end requiring the follow-up.

Since Mr. Lindsey was the lead Arkansas contact within the White House, I realized that it was appropriate that he was in the room, that he would be the appropriate person to have heard this, and any follow-up or information would have to come through Mr. Lindsey.

Q Did Mr. Lindsey provide any information to Mr. Gerth at this meeting, to the best of your recollection?

A I don't recall that. I don't believe my notes indicate that. It was mainly his review of his research and reporting and then the questions of --

MR. SIMON: "He" being Mr. Gerth?

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THE WITNESS: Yes, and then the questions posed to the White House.

BY MS. FISHER:

Q This meeting discusses David Hale at length, or at least your notes do. Do you recall whether this meeting was the first time you learned of an issue relating to David Hale?

A I don't recall when I learned of David Hale.

Q Do you recall learning of a telephone contact between Mr. Hale's lawyer, Randy Coleman, and Bill Kennedy at the White House in August of 1993 prior to this 1993 meeting?

A No. I'm aware, as I tried to prepare for this, that I have notes of that reporter's inquiry about it and notes about the suggested responses, I believe, to those reporters' inquiries. I can't put a recollection on the date of when that reporter inquiry was.

Q Do you remember what your general impressions were after this meeting, whether it was wow, this is the first I'm hearing this, or oh, jeez,

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this is what they expected to come up and now it has? Do you have any recollection of your impressions?

A Well, I guess most of all that it was incredibly complex and that -- I don't think I had ever heard anything of this detail prior to this. I was not a full-time staff member on the campaign when Mr. Gerth had written previously, so I was not schooled in any of these issues particularly.

I don't remember any indication on Mr. Lindsey's part of any alarm or concern by his deportment or conduct at this meeting or afterwards but that there were these comments made and then the request for information.

Q So, you don't recall Mr. Lindsey being alarmed or concerned about what Mr. Gerth told you and Mr. Lindsey at the meeting?

A No, I do not.

Q Do you recall having a discussion with Mr. Lindsey after this meeting?

A I don't, no.

Q I don't want to take you through the whole

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note by note of this, but I do want to ask you some questions about your notes.

A Sure.

Q Please bear with me, because I will try to skip some.

MR. SIMON: I think for the record it probably would be easiest to do this: if you could say if it is the first page or if it is a subsequent page, if you could say what the first word on the page is.

MS. FISHER: Or I could refer to the Bates number.

MR. SIMON: Oh, that's even better. I didn't realize these had numbers on them.

BY MS. FISHER:

Q On the first page, S 20292, down in the second half of the page, it becomes a little harder to read. Please read.

A "Gerth and Steve Engelberg, Little Rock for three days, talk with Hale, believe he tells truth, Governor Clinton -- loans through McDougal to cover debts, allegation. BC," which would be Bill Clinton

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"encouraged or engaged misuse of government program or at least a coverup. NYT," New York Times, "asked Hale for affidavit."

Q Do you recall anything other than what is set forth here in the notes?

A I do not.

Q Do you recall one way or another what your impression was when you first heard that there was someone out in Arkansas, namely David Hale, making allegations that the President had pressured him to make loans?

A I guess what I can remember of this is, number one, it was very complicated to me at the time. This is very dense material. There were names and matters that I was unaware of in Arkansas, politics and business here.

But secondly, because Bruce Lindsey was the key Arkansas staff member in the White House who was knowledgeable about Arkansas matters and had a history with the President in gubernatorial campaigns, which is referenced here, because he was not alarmed or seemingly concerned by this

information, I assume that affected my review of his comportment.

Thirdly, because this was Arkansas, this would not be something I would be tasked with. This would be Bruce's portfolio to follow up with. I was probably grateful he was there to hear it firsthand.

Q I guess I'm trying to see if I can refresh your recollection of whether this was the first time you were hearing this. I take it that it is not every day someone comes forward and makes these allegations.

MR. KRAVITZ: Pretty close to every day.

THE WITNESS: Well, I think in fairness, the staff life of any White House is a busy one, and it is not an uncommon experience for an awful lot of charges to be leveled at public figures.

All I can say is, separate from the complexity of this, which I was impressed with, because I felt Mr. Lindsey was quite knowledgeable and someone who I knew to be knowledgeable about Arkansas, because of his reaction to this, I did not particularly -- this did not particularly penetrate

as something that was serious.

And thirdly, because it was not something I would be tasked to follow up on personally, that may account for my calm.

BY MS. FISHER:

Q Were you curious as to the lack of concern on the part of Mr. Lindsey?

A I don't recall that I was curious. You could say I was more calmed by it.

Q Turning on the next page, 20293, if you could just read that top portion.

A "FBI to local magistrate for records of Whitewater, turned over tax records but not" -- there is no indication of what that follows. "Magistrate signed search warrant at 1:20 p.m. on day of Foster. Hale, three conversations with BC," Bill Clinton. "Tunnel underneath Little Rock capital to meeting during campaign, 3 in a mall. Hale has small investment company, misused SBA funds."

Q Do you recall whether this was the first time that Whitewater came up in relation to your duties as communications director? This being

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September 20, 1993, Mr. Gerth is now talking about Whitewater tax records, and I think he goes further later on in the meeting. Do you recall any impression about that?

A Well, again, I would have put this in a later time frame. I had no reason to dispute what other notes have indicated. I would have put this in a later time period in October.

So, if this was -- I don't remember any prior conversation, if this is indeed that September time period. But I would be less than honest if I would have testified to this committee certainly that it was September. I would not have put it there.

Q Do you recall whether -- you do recall the meeting?

A Oh, absolutely.

Q Do you recall whether you thought, oh, he is mentioning Whitewater, this is the first time that I am dealing with this?

A I don't have that recollection, no.

MR. SIMON: Do you recall any issue about Whitewater during the campaign?

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THE WITNESS: No. As I said, I was not -- I am aware that it came up during the campaign. I was not on the primary staff.

BY MS. FISHER:

Q In fairness, I was attempting to focus on your job at the White House and what you dealt with there.

MR. KRAVITZ: Can I ask one clarifying question?

MS. FISHER: Sure.

MR. KRAVITZ: Mr. Gearan, my understanding is that the notes on page 20292 that you read for us, those are notes of what Mr. Gerth was saying to you and Mr. Lindsey; is that correct?

THE WITNESS: That's correct. As I read these, I believe all of this information is from Mr. Gerth. I had no independent knowledge of any of this. It would be my practice to note if any information would have been from Mr. Lindsey at this meeting.

MR. KRAVITZ: Then starting on page 20293, at least where it starts talking about -- where Gerth

starts talking about Hale, your notes are notes of what Mr. Gerth told you he had been told by Mr. Hale.

THE WITNESS: That's how I read my notes, that's correct.

BY MS. FISHER:

Q On S 20294 -- and again, I'm going to try to keep myself from asking you about all of your entries, but I do want to ask you about an entry here that surrounds the word "Chemato" and ask you just to read that, starting 1980 and then explain to me what you recall about that particular issue.

A "1980, BC call several times concerning his SBIC."

Q That would be Hale's SBIC?

A I don't know that. It is not indicated in my notes. Again, as I mentioned, this was information from Gerth. "Brought in," I would assume that is "San Francisco consultant to see if state could set up Chemato." I don't know if that is the name of the consulting firm. Perhaps. "Larry Shipley ran it," which one could read as running Chemato, but I don't know. "Loaned $80,000. It went

broke. No illegalities alleged. Estimates Bill Clinton's ties and knowledge." I guess that is "estimates."

Q Do you recall what this refers to?

A No, I don't recall it. This is my handwriting, but this is what I said at the beginning, that it was rather dense material and complicated material.

Q Did you ever at some later date discover what this reference referred to? To your knowledge on the present day, do you have any idea?

A I don't. To this day, I don't know what that means.

Q So, you don't know what -- do you have any idea what it means when it says "it went broke"? What is it that went broke?

A I don't know. I don't know if it is Chemato. I don't know -- I don't know.

Q Down there where it says "ESTS," would that be established or estimates?

A Yes.

Q "BCI's ties." Would that be Bill Clinton's

ties with David Hale?
A I don't know. That would be how I write "established." I said "estimates" I think on the transcript.
Q On S 20295, which is the next page, the notes appear to relate to alleged conversations between McDougal, McDougal and Tucker, et cetera.
A Do you want me to read that?
Q Yes.
MR. SIMON: I have no problem, since it is his handwriting and I am sure you would want him to do it. My concern about this is that it not appear that because he is reading this that he has any knowledge of this beyond what Mr. Gerth is saying.
It would seem to me, frankly, given the fact that this would probably assist in the deposition of Mr. Gerth about the basis for these statements, that that would be useful.
But my problem is, given the fact that it is also not clear whether, given my client's lack of understanding of the context and his not knowing the people or the organizations, et cetera, that even

what is being written down is an accurate reflection of what was said.
I want to make it clear. So, when he is giving these answers, it is not altogether clear that he ever understood it well enough to be able to answer your questions.
MS. FISHER: I understand that. The references that I have questions about I basically want to know if he recalls anything else about the discussion with Mr. Gerth that is not reflected in the notes; and, two, on certain particular areas which I will try to point out, I would like to know if he ever during his tenure at the White House after this meeting discovered what something may or may not have referred to. I will try to be more pointed in my questioning. I appreciate that.
MR. SIMON: I appreciate your sensitivity to it. My only problem is that, having represented a number of witnesses over the years, I think it is very difficult to try to recall where there is so much of a meeting that one may not understand, it may be very difficult to recall anything beyond what you

have written down, and to try to then expand on -- to build on what may not be an accurate reflection of what Mr. Gerth said two years or so after the event, my only concern is the accuracy of the record for this committee and the extent to which my client is really able to go beyond these notes in a situation where he doesn't necessarily understand what was being told to him at the time. Whereas, other notes that he has, I think he may be able to do that and to have other recollections, because it may be less opaque to him than this briefing was.

I will not interject again. I'm sorry.

MS. FISHER: That's fine. I want it to be clear as well.

MR. SIMON: I may not resume my potted plant status, but I will try to be a little bit less.

MR. KRAVITZ: One suggestion, actually, Mr. Gearan, that I think would help the clarity of the record, I think when Alice is just asking you what the notes say, I think if you can just read what the notes say and then wait until she asks you what

you understand them to mean. Wait for a second question and then for the third question, whether you know anything additional today. I think that way the record will be much more clear about what you are actually testifying to.

THE WITNESS: Whatever is most helpful to the Committee.

BY MS. FISHER:

Q Why don't you read this page.

A I can definitely read my own handwriting, I think. I will do my best. "Fall 1985. Conversations with Jim McDougal and with Jim McDougal and Jim Guy Tucker. Two things going on. 1, McDougal told them staff need help. Friends in political family need help. Jim Guy Tucker: figure a way to get you more money (SBIC could only loan 30 percent of equity). McDougal also told him he'd run into audit in S&L. Had to get loan transactions out of there. Asked for list of assets.

"2, fall of '85 identified loans. A, Castle Water and Sewer loan of 150,000. Jim Guy Tucker a stockholder. B, Steve Smith, McDougal

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business partner, BCA, 65,000 cable company; C, loan to Susan McDougal."
Q Please complete it.
A "Jim Guy Tucker urged him to get out of troubled loans. He underestimated loan from McDougal that one of loan concern Bill Clinton."
Q Could that be "understood"?
A That could be "understood." That probably is loans. Let me read it again. It could be. "He understood loan from McDougal that one of loans concerned Bill Clinton."
MR. KRAVITZ: I think you actually put an extra word in there. Why don't you read that one again.
THE WITNESS: I will try one more time. "He understood from McDougal that one of loans concerned Bill Clinton."
BY MS. FISHER:
Q Turning back to 20295, relating to the portion about Castle Water and Sewer. Do you have any recollection further than what is described here in the notes?

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A No, I do not.
Q Do you recall whether this was the first time you learned of an issue relating to Jim Guy Tucker or Castle Water and Sewer?
A I don't recall ever hearing of it prior to this. I don't recall hearing of it, but I'm unfamiliar with the entire subject.
Q Up until the present time, did you ever gain any knowledge relating to Castle Water and Sewer?
A No.
Q Down on the bottom of 20296, there is discussion of Madison Guaranty and the examination of Madison Guaranty.
A Yes.
Q I take it this is what Mr. Gerth is relaying to Mr. Lindsey and yourself that Mr. Hale said about, just to be clear, about --
A Well --
Q Go on, please.
A This is information from Mr. Gerth. I am unclear as to now that he is quoting.

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Q It could be information he gathered.
A But I don't know who he is quoting.
Q You do recall there was an issue discussed at the meeting about Madison being in trouble and needing to get money into Madison because the auditors were coming, the examiners?
A I know my notes record that. I can't tell you I remember it.
Q Other than what is in your notes, do you have an independent recollection?
A No, I don't.
Q Other than what is in your -- up to the present day, did you -- have you had any experience in learning any facts surrounding the audit or examination of Madison Guaranty?
A No. On the range of these issues, I wasn't schooling myself in the details of this transaction.
Q Do you recall whether this was the first time you learned of meetings or allegations of meetings between Bill Clinton and Jim McDougal and David Hale regarding loans?
A I don't recall when I first learned of that

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or heard of that.
MR. SIMON: Do you have any recollection of hearing about it before this meeting?
THE WITNESS: No, no.
BY MS. FISHER:
Q Turning to 20298.
A Yes.
Q Down in the bottom where it says "1984," please read what that says.
A "1984, Bill Clinton campaign debt that McDougal helped erase. Betsey Wright confirmed."
Q Is your understanding that Mr. Gerth was telling you what Betsey Wright had said, or is this something that -- is this information coming from someone else?
A Well, all of this information is from Mr. Gerth. I don't know that he is -- I can't help amplify my notes here as to whether he is quoting how he is getting this confirmed from Betsey Wright, if that's what you mean. I'm unclear how to read my notes. I know all of this is from Mr. Gerth, but it is not clear here from my notations the source of

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that, whether that is Mr. McDougal or what. I don't know.
Q Could you go on reading on the next page.
A 99?
Q Yes, please.
A "Meeting no longer than 20 minutes. The purpose of loan (150,000 then to 300,000) was to 'clean up' (McDougal words) the books, records at Madison so examiners wouldn't discover and criticize transactions that had indirectly benefited Whitewater. Not a loan from Madison to Whitewater but more indirect. McDougal and Bill Clinton participate in meeting. It was a natural thing. Bill Clinton said my name can't show up. Fact is: Hale said we could give security for the loan (meaning Bill Clinton offered Marion County Properties as security for loan). They were very nervous. Had to get done. Hale. This was a term Jim Guy Tucker used. Had to clean it up. Had to have money. Had something to do with" -- I don't know if that is "examiners" or "examination." It is unclear.

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Q Do you have any further recollection of Mr. Gerth's discussion than what is on the notes?
A No, I do not.
Q Do you know who they, where it says "they were very nervous" referred to? Who is "they"?
A No, I don't know whether he is referring to -- I don't know. It is unclear here from my notes how one could interpret that.
Q Why don't you go on to the next page.
A 300?
Q Yes. This is getting tough to read.
A "He said we could offer security for files, we have land. Hale understood as land in" -- I don't know if that is Marion from the previous 299. I don't know. It seems like it could be Marion. "All I could remember was White something."
Q Who is the "he" referring to there?
A I don't know.
Q Is it Bill Clinton, President Clinton?
A I don't know if it is President Clinton or McDougal or Hale. I have kind of lost the thread of the conversation here.

The next sentence says "Understand Bill Clinton name couldn't be used," which I assume he was quoting --

MR. SIMON: Somebody other than Clinton?

THE WITNESS: Yes, somebody other than Clinton, and whether the prior sentence included Clinton, I'm not sure.

BY MS. FISHER:

Q Could you just go on reading.

A You bet. "Clear from meeting, lend Susan McDougal $150. Because of problems Madison had for taking care of something else. Covered tracks but had to cover them too. Nothing said of what Susan would do with money. All making sure Bill Clinton name not used. Might be discovered by regulators."

Q Would that be referring to the Madison regulators?

A I don't know if it was state or federal regulators. I don't know.

Q But the regulation -- the regulators, that is a reference to Madison; correct?

A I don't know what Gerth is saying. One

could read it that way certainly.

Q Okay.

A Do you want me to keep reading?

MR. SIMON: Could you excuse me for just a second?

MS. FISHER: Sure, no problem.

(Recess.)

BY MS. FISHER:

Q I want to direct your attention to 20301, in the middle where it says FBI. If you could read that little portion there.

A "FBI and Department of Justice have traced this money this way so far. They believe money went to personal account of McDougal at Madison, then converted to two cashier checks (don't know to who.)"

Q Do you have any recollection independent of these notes about the discussion of the FBI and DOJ involvement in this matter?

A No, I do not.

Q Turning to 20306, could you read just starting where it says "Accordingly." Is that

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accordingly?
A "According to David, handwritten note from Jim Guy Tucker saying here is pledge Worthen has lien on it. Note also says Clinton will help too. That note clipped to top of pledge documents. FBI seized this note. Can't produce it for New York Times."
Q Do you recall ever seeing a note that is described here, a note such as this?
A No.
Q Do you recall ever learning that such a note existed or did not exist?
MR. KRAVITZ: You mean other than this conversation related by Mr. Gerth?
MS. FISHER: That's exactly what I mean.
THE WITNESS: No, I do not.
BY MS. FISHER:
Q Turning the page to 20307, is this part of the same meeting, the same notes?
A I believe it is, yes.
Q This appears to be a discussion of Whitewater and tax records; is that correct? Is that a fair characterization?

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A The headline is "Whitewater and Vince Foster."
Q Down at the bottom of 20308, where it says "Major question," are these the questions that Mr. Gerth asked to be answered?
A That's how I would read my notes.
Q And could you just read what the questions are?
A Certainly. "Major question. Where are the records of Whitewater Development Corporation and what has happened to them. Inventoried. Found or disappeared."
Q Do you recall whether you ever got the answer to that question, or is this the answer underneath that?
A I don't know that that is the answer or just more of Mr. Gerth's presentation.
Q That there was a box of documents --
A Yes, "Box of documents in Rose Law Firm or Whitewater 1-1/2 years ago." It would have been my practice to note if it was Mr. Lindsey indicating an answer.

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Q The next page, 20309, says in the center there "Out to Podes meeting."
A I left the meeting at that point.
Q Did you then come back?
A I believe I did.
Q Was this a further discussion between you and Mr. Lindsey?
A No. I believe I came back. But this is the typical presentation of the questions or issues from a reporter question that I would have listed, 1, 2, 3 and 4.
Q The second one says, if you could read that.
A "Number 2, Podes recollection of David Hale and recounted allegations or recanted allegations," I don't know.
Q Did you take any steps to answer this question?
A No, I did not.
Q Did you have any discussions with the President, his recollection of David Hale?
A No, I did not.

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Q At any time?
A No, I did not, I don't believe so.
Q Did Mr. Lindsey at any time tell you what the President's recollection of his meetings with David Hale was?
A My information on this to answer reporters' questions was from Mr. Lindsey. I don't know who responded to Mr. Gerth in this instance.
Q What did Mr. Lindsey tell you?
A When?
Q About the answer to this question.
A I don't recall the answer to this question at this juncture.
Q At any time?
MR. SIMON: I think there is another document that may indicate involving a follow-up on this meeting that may have an answer.
THE WITNESS: The Steve Engelberg --
BY MS. FISHER:
Q We will get to that then.
A That's why I hesitated. It was not here anyway.

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Q Number 4 on page 20310 appears to say "Jim Blair represented Clintons."
A Correct.
Q Do you recall what Mr. Blair's representation was of the Clintons?
A No. I only knew the Blairs to be friends of the Clintons.
Q Did you have any knowledge that they had provided legal representation to the Clintons?
A No.
Q Did you have knowledge at any time that Mr. Blair provided funds to Mr. McDougal to buy the Whitewater stock in late 1992?
MR. SIMON: My only question is this --
THE WITNESS: At this time?
MS. FISHER: Yes.
MR. SIMON: My only question is articles and stuff like that. He may have some knowledge, but it may not be accurate knowledge.
BY MS. FISHER:
Q If it is something you just learned in the press, just say so.

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A I don't believe I had any information then as to that.
Q How about now?
A I am aware through the press accounts that there was some issue involving Mr. Blair before the President took office.
Q Other than what you have read in the paper, have you had any discussions relating to Mr. Blair's payment or provision of funds to Mr. McDougal to buy the stock of Whitewater?
A No.
Q As we sit here today, do you have any knowledge other than what you have read in press accounts that Mr. Blair provided other funds to Mr. Chris Wade or others relating to Whitewater?
A I don't know that at all.
Q At the end of this meeting with Mr. Gerth, did you have a discussion with Mr. Lindsey about the meeting and what Mr. Gerth had related to you?
A I don't recall. I don't recall a discussion with Mr. Lindsey.
Q Do you recall a discussion with Mr. Blair?

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A No.
Q Do you recall being present in the discussion between Mr. Lindsey and Mr. Blair?
A No.
Q Do you recall Bob Nash's name being raised at all after this meeting regarding the facts that Mr. Gerth had related to you?
A Bob Nash?
Q Yes.
A No.
Q Do you recall learning at any time subsequent to this meeting that Bob Nash was present at a meeting between Mr. McDougal and President Clinton back in the '80s?
A No.
Q Did you have any discussions with the President about this meeting?
A No.
Q The First Lady?
A No.
Q Other than Mr. Lindsey, did you have any discussions with anyone else at the White House about

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this meeting?
A I don't recall. I may have with Mr. Gergen, as I reported to him. Whether or not I would have mentioned this to him, I can't recall that, but I may have.
Q I believe in your deposition of July 23, 1994, when the deposition -- the deposition which concerned notes that you took at a meeting with -- please look at these notes. I don't want to mischaracterize who the meeting was with, since I wasn't here in 1994.
MR. KRAVITZ: It is probably the October 14, 1993 White House-Treasury meeting.
MS. FISHER: Right.
MR. KRAVITZ: I haven't seen what you passed him, so I am guessing.
BY MS. FISHER:
Q Who was present at this meeting, to the best of your recollection?
A I testified to this previously.
Q I just don't have it right here.
A That's all right. Mr. Nussbaum,

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Mr. Lindsey. There may have been other members of the counsel's office. I believe Mr. DeVore from the Department of Treasury.

Q And RTC criminal referrals relating to Madison were discussed at the meeting?

A That was a meeting?

Q Or got brought up at the meeting.

MR. KRAVITZ: I believe the testimony from Mr. Gearan and several other witnesses back in 1994 was that that was a meeting to discuss press inquiries relating to RTC criminal referrals.

MS. FISHER: Relating to Madison Guaranty.

MR. SIMON: I'm not sure -- to the extent you have any recollection today, but I think he has testified pretty much what he knows about this. I am a little hesitant to have him go back over it. Is there anything in here that would indicate to you that this related to Madison Guaranty?

MS. FISHER: Under "Sue Schmidt" it says --

THE WITNESS: What I recall of the meeting was a meeting to discuss the press response to this with the public affairs officials from the Department

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of Treasury and myself. I was there for a brief period of time for the meeting.

BY MS. FISHER:

Q This meeting occurred on October 14?

A That's correct.

Q I believe in your deposition in 1994, you testified that this was one of the first contacts references that I can recall for Whitewater. This was not on my radar screen, Whitewater, at this point in time.

A That's correct.

Q Putting into context what we just discussed, the September 20th meeting which discussed Madison and the examination of Madison, et cetera, do you have a further recollection that indeed just a few weeks prior to the October 14th meeting you were in a meeting that discussed Madison and Whitewater?

A Well, I guess the only thing I would say today is I have no reason to dispute that that meeting was in September, if the notes join those facts. I would not have placed it then. I was at a meeting to hear a reporter's presentation of the

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facts, the Gerth meeting. There was no other independent reporting of that, but all of that material that we just went through was from Jeff Gerth.

I don't -- beyond that, I would not have placed it in that time line. But again, I have no reason to dispute that.

Q Does it refresh your recollection now, knowing this meeting is on September 20th, that indeed there were Whitewater and Madison issues revolving around the White House or at least that had come to the attention of you and Mr. Lindsey?

A It does not refresh me, no.

MR. KRAVITZ: One point of clarification. Is what you are saying that as of the time that you gave that deposition testimony that Alice just read to you, which presumably is summer of 1994, in your mind as of October 14, 1993, you had not had discussions relating to Madison or Whitewater?

THE WITNESS: Yes, that's correct.

MR. SIMON: I think to this day Mr. Gearan actually thought that meeting took place afterwards,

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because he has no recollection of anything before that meeting in Mr. Nussbaum's office on the 14th of October.

MR. KRAVITZ: "That meeting," you are referring to the Gerth meeting?

MR. SIMON: He has no recollection of anything relating to Whitewater prior to his meeting in October in Mr. Nussbaum's office relating to the press inquiries and the Treasury Department. That is his best recollection. It may not be an accurate recollection, but it is his best.

MR. KRAVITZ: Your recollection as of the summer of '94, when you gave this deposition to the Senate, was that the Gerth meeting occurred after the October 14th meeting with Treasury officials?

THE WITNESS: I don't think I was asked that in the summer of '94. If you were to ask me in the summer of '94 or today what was my first recollection, I would have put that October 14th meeting. Again, if it is two or three weeks earlier, I don't have any reason to dispute that. I would not have pegged it there, but that is the best of my

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recollection then and today.
BY MS. FISHER:
Q Do you have a recollection of any further meetings that you had with Mr. Lindsey regarding the substance of what Mr. Gerth told you in the September 20th meeting?
A I don't have a recollection of any other meetings other than there was the other document that exists from the other New York Times reporter.
Q Turning to S 20452 and S 20453, Mr. Gearan, are these your notes?
A Yes, they are.
Q And the telephone log indicates that it was a call from Mr. Engleberg on September 23, 1993. Do you believe that you took these notes contemporaneous with that date?
A I don't know when I took the notes.
Q Do you believe it was either September 23rd or shortly thereafter?
A I don't know.
MR. SIMON: For the record, Counsel, we have not had access to the documents from which this

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was made, the original of the document from which this was made, so that we don't know whether or not it was simply Xeroxed this way or whether or not it was in fact written on this document or not. We don't know that. But I don't think Mr. Gearan is in a position to say that it wasn't written that day.
THE WITNESS: It could have been. I just don't know.
MR. SIMON: We don't know whether or not -- maybe this was just a message that may have been the next day or it could have been months later. Who knows. The bottom line is it was -- certainly this message certainly appears to have come in on the 23rd. It may well be that the notes were written the same day.
THE WITNESS: But my notes aren't dated.
BY MS. FISHER:
Q You have no recollection of when these notes were taken?
A No.
Q Is it your recollection that these were the questions Mr. Engleberg wanted answers to?

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MR. SIMON: Do you recall having a discussion with Engleberg around this time or a discussion with Engleberg?

THE WITNESS: I don't recall a discussion with Engleberg, but this is the general format of reporter questions that I would list down to them information on.

BY MS. FISHER:

Q Over on the right hand, is that your writing?

A Yes. Do you want me to read it?

Q Yes.

A "No recollection. Doesn't believe it happened."

Q What does that refer to?

A I read that with question number 1, "does BC have recollection of meeting. No. So what happened."

I don't know if that notation refers to number 2 and 3 or not. My indication under number 1 is clear. I don't know if that applies to 2 and 3 or not.

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Q Do you recall who provided you with this information, that the President didn't recall?

A I believe it was Mr. Lindsey.

Q Number 4, could you read that for me?

A Yes. "Number 4, notion that indirect nature by Madison Guaranty to help Whitewater."

Q Do you recall what that refers to? Can you put that in any context?

A I don't recall today what Engleberg was asking here.

Q It is your recollection that this is another question?

A That would be the typical format, 1, 2, 3, 4, 5, correct.

MR. SIMON: Format for what, so the record is clear?

THE WITNESS: Format for the way I would take notes listing reporter's inquiries.

BY MS. FISHER:

Q Read number 5, please.

A "Documents 1992 box at Rose Law Firm, fax messages to Gerth from Eller saying consulting boxes

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at Rose. Susan T. said she had.
Sent someone to inventory them at Rose. In course of sale to McDougal. Couple of tax returns. No B. Where is the box? Not turned over the McDougal. Gerth given a balance sheet."
Q Do you have a recollection whether any part of this is an answer or all of it is a question?
A I don't have a recollection of that. My formatting of how I would take this would have noted the answer differently as number 1 is answered.
Q So, it would be your best recollection that the portion that says Susan T. said she had sent someone to inventory them at Rose would be something Mr. Engleberg was relaying to you?
A Correct. I would read the whole thing as an Engleberg question.
Q Would that be referring to Susan Thomases?
A That's how I would read that, yes.
Q Do you recall any follow-up to this question?
A I do not.
Q Other an attempt to get an answer?

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A I do not.
Q Do you recall learning at any time subsequent to this of Whitewater documents being at the Rose Law Firm?
A I'm sorry. Could you repeat the question.
Q Do you recall learning at any time, subsequent to Mr. Engleberg asking this question or posing this question to you, of documents that were Whitewater documents located at the Rose Law Firm?
MR. SIMON: Again, excluding anything he read in the newspaper?
MS. FISHER: Yes.
THE WITNESS: No.
BY MS. FISHER:
Q And it would be your testimony that any answers or any attempt to get answers to these questions you would have directed to Mr. Lindsey?
A Yes.
Q Do you know what the reference here is to consulting boxes?
A I'm sorry?
MR. KRAVITZ: What page are you on? Oh, I

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see.
BY MS. FISHER:
Q It is 453.
(Witness examined the document.)
A "Fax messages to Gerth from Eller saying consulting boxes at Rose."
I guess one could read that as messages were faxed to Gerth from Eller saying they were consulting boxes at Rose.
Q Who is Eller?
A Eller is Jeff Eller, who is a campaign staff member during 1992. But I don't know what that means.
MR. SIMON: Or do you even know if that is the same Eller?
THE WITNESS: I don't know, but that's who I presume it is.
BY MS. FISHER:
Q Did you know Susan Thomases at this time, as of September of 1993?
A Yes.
Q What was her role with regard to these

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issues?
A "These issues"?
Q Madison, Whitewater.
A In 1993?
Q In 1993.
A I don't know that she had any role in 1993.
Q Did you have any discussions with her regarding Whitewater or Madison in 1993?
A I don't recall any, no.
Q Did she ever attend any meetings that you were at in 1993 with regard to Madison or Whitewater issues?
A No.
Q Do you have any knowledge of destruction of Whitewater documents at the Rose Law Firm?
A No.
Q Do you have any knowledge of the destruction of Whitewater documents at the White House?
A No.
MR. SIMON: Counsel, so that the record is

clear, particularly with regard to the Rose Law Firm, I assume you are excluding press reports.

MS. FISHER: I am excluding press reports.

BY MS. FISHER:

Q I don't want to ask you what you read in the press. But if somebody has come to you with a question that you follow up on or you had a conversation with someone about whether it did or didn't happen, then I do want that information, just to be clear.

Do you have any knowledge of any destruction of documents related to Whitewater or Madison during the 1992 campaign?

A No.

Q So, it would be your testimony that you have never discussed with anyone at the White House any destruction of Whitewater or Madison records that occurred during the 1992 campaign?

A Correct.

MR. KRAVITZ: Before we get into another set of meetings, would you mind if I just asked about five follow-up questions relating to the Gerth

meeting so we don't have to come back to it?

MS. FISHER: I don't mind.

EXAMINATION

BY MR. KRAVITZ:

Q Mr. Gearan, Ms. Fisher asked you questions about your notes from this meeting you attended in 1993 with Jeff Gerth and Bruce Lindsey, and the notes were S 020292 through S 020310. Do you have any recollection of the substance of what was discussed at that meeting with Mr. Gerth independent of what is reflected in these notes?

A No. From that meeting?

Q Right.

A No.

Q Let me rephrase the question. Do you have any recollection of what was discussed at that meeting with Mr. Gerth and Mr. Lindsey other than what is reflected in your notes of the meeting?

A Other than what I have testified in answer to Ms. Fisher's comments, that it was in my office and those facts, no, I don't have any other independent knowledge.

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Q In terms of your memory of what was said at the meeting, that is limited to what was in your notes of the meeting; is that accurate?
A That's correct.
Q Now, on page S 020 --
A I'm sorry. I turned it back in.
Q On page S 020292, the first page of your notes, your notes indicate that Mr. Gerth told you and Mr. Lindsey that David Hale was about to be indicted. Do you see that near the top of your notes?
A Yes, I do.
Q At any time following your meeting with Mr. Gerth and Mr. Lindsey in the fall of 1993, did you become aware of any efforts by any White House official to interfere with or otherwise influence any criminal investigation of David Hale?
A No.
MR. KRAVITZ: That's all I have on that subject. Thank you, Alice.
EXAMINATION
BY MS. FISHER:

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Q Now, this is going to be kind of a task, because some of these pages are redacted and some of them are not.
A Should I give you this back?
Q You may need to keep that. You may need to refer to that at times.
Referring first to S 20564, it says "Whitewater January 4 meeting, Mac's office" at the top. It is in the new stack.
A Is it in here too?
Q It is, but a redacted copy is in there. Let's look at the new stack unless I tell you to look at the old stack. Maybe that will be the easiest way to do it.
A Got it.
MR. KRAVITZ: I see. These have all new numbers.
MS. FISHER: They do.
BY MS. FISHER:
Q Are these your notes, Mr. Gearan?
A Yes.
Q Do you recall this January 4th meeting in

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Mr. McLarty's office? I am assuming Mac is referring to Mr. McLarty.

A Yes, that's right. I recall this period of time, yes.

Q Do you recall who attended this meeting?

A Mr. McLarty, Mr. Eggleston, Mr. Klein, Mr. Stephanopoulos, Mr. Gergen. For the series of meetings this week, I don't know that I can be precise at who is exactly the manifest for each meeting and who is at what meeting. I know by virtue of my notes that those people were at least in this meeting.

MR. SIMON: Was Mr. Ickes at the meeting?

THE WITNESS: Mr. Ickes was at the meeting. Let me make sure I am not missing anyone.

MR. SIMON: Mr. Nussbaum?

THE WITNESS: I don't know that he was at this meeting or not. He was at others.

BY MS. FISHER:

Q During this time frame, the first and second week of January 1994.

A Correct, yes.

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Q Is there anyone else that you can recall that may have been present at this series of meetings? I won't ask you to say --

A Which ones? But you mean the whole range of meetings?

Q Yes.

A During the whole course of the week?

Q Yes.

A Mr. Nussbaum, Mr. Klein, Mr. Eggleston, Mr. Stephanopoulos, Ms. Myers, Mr. Ickes, Mr. Lindsey, Mr. Waldman.

Q Ms. Williams?

A I don't recall Ms. Williams. Ms. Caputo.

Q Did the First Lady attend any of the meetings?

A At the end of this meeting, she did come into the meeting. But I don't recall any of the other meetings she attended.

Q Did the President attend any of these meetings?

A No.

Q Did Mr. Quinn attend any of these meetings?

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A I cannot recall if he was there or not.
Q And Mr. Klein was deputy White House counsel at that time?
A That's correct, yes.
Q So, Mr. Klein, Mr. Nussbaum and Mr. Eggleston would have been there from the White House counsel's office. Is there anyone else that you recall from the White House counsel's office attending these meetings?
A No, to the best of my knowledge.
Q Mr. Kennedy?
A No.
Q Who called this particular meeting on January 4, 1994? Or how were you notified of the meeting?
A I can't recall. It was in Mr. McLarty's office, as you know, but I don't know how I was contacted.
Q Is it your best recollection that January 4th is the first in the series of meetings?
A To the best of my recollection, based on my notes.

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Q Were they generally held in Mr. McLarty's office?
A No. Some were held in the Ward room in the White House.
Q In the what room?
A Ward, W-a-r-d.
Q Was Mr. Kendall present in any of these meetings?
A No, I don't recall him being present.
Q Mr. Barnett?
A No.
Q Ms. Thomases?
A No.
Q Going through the first meeting, January 4th --
A I just want to make sure I have given you all the names.
MR. KRAVITZ: Was Cliff Sloan present?
THE WITNESS: No.
BY MS. FISHER:
Q Let me ask you this. Was there kind of a division between all these individuals of who was

going to do what or who was there for what reason?
A Well, there were some tasks I had, for instance, as indicated here. The general approach at this period of time for this week period of time was to think through the press strategy of what would be responding to the drumbeat of stories and editorials and Congressional comments about the Whitewater matter.
There was an interest at that period of time to be more aggressive in our efforts to get the truth out about the circumstances surrounding this controversy.
Q What was the role of White House counsel there?
A As a participant. To advise, as a participant at the meeting. One of the subjects at the meeting, as the notes evidence, is the internal debate as to whether there would be a call for independent counsel or special prosecutor or special counsel in this matter.
Q So, also included in this meeting were issues other than those just relating to how are we

going to deal with the press? There was also internal debates about what we are going to do in general?
A Yes. The notes reflect the internal discussions that were held on whether there should be a call for an independent counsel or special counsel, as well as the intensive effort that would be made to get the facts out and the information out on this.
MR. SIMON: But the discussion of special counsel wasn't independent of discussions of the press, which I think at that time we are talking about?
THE WITNESS: As you can see from the notes, it is mixed in with that. The discussion of independent counsel was being called on by various members of Congress and editorials and so forth. It was both how to respond to those calls as well as the internal debate within the White House of whether --
BY MS. FISHER:
Q What position the White House was going to take?
A What we were going to do, right, of

course.
Q If you could just start reading your notes here, and probably the best thing is for me to stop you when I have a question. If you start with Neil, that is referring to Neil Eggleston?
A Correct. "Documents to Department of Justice. Then questions turned up and not off. Continued questions for release. Federal grand jury in Arkansas (U.S. Attorney recused). Career prosecutor named. Investigating referral from RTC on Madison. Documents may have relevance to grand jury for investigation of diversion of funds from Madison to Whitewater."
Q Let me stop you there. This is all being reported by Mr. Eggleston?
A Correct, that's how I read that.
Q What documents is this being referred to here, the documents that were turned over to the Department of Justice in December?
A That's correct. That's how I would read that.
MR. KRAVITZ: Alice, I think just for the

clarity of the record, we ought to state that the portion that Mr. Gearan just read actually includes -- as you can see, there is a little asterisk in there. Do you see that, Mr. Gearan?
THE WITNESS: Yes.
MR. KRAVITZ: Something has been redacted out of there. Right before your deposition began today, there was a meeting between members of the White House counsel's office and Majority and Minority counsel of the Senate committee, and there was an agreement reached as to information or entries in your notes that would be redacted.
So, when Ms. Fisher is having you read these notes, you need to understand and the record needs to be clear in some instances you are actually reading incomplete portions of your notes. But it is all by agreement between the Senate committee and the White House as to what would be redacted.
THE WITNESS: Thank you.
BY MS. FISHER:
Q Just keep reading.
A "Documents under jurisdiction of federal

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prosecutor now. Clamor now is any career prosecutor is subject to control of politics. Career prosecutor has documents. Joel Klein two concerns."

Q Is this Joel Klein speaking?

A Yes. "Public perception of independent counsel a la Watergate. Every time we move, New York Times says jump higher. Risk of Attorney General getting out front and naming a counsel before White House leadership."

Q Let me stop you right there. What do you recall about the discussion regarding what you just read, which is "Risk of Attorney General getting out front and naming counsel before White House leadership"?

A I recall the issue at the time, because there was considerable drumbeat, as I said, on this issue as well as others and calls for independent counsel, that if the Attorney General called for a special counsel in this instance before the White House did, there would be a risk of the Attorney General being out front of the White House effort to be as helpful and forthcoming as possible.

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Q So, if I understand you correctly, the concern was that if the Attorney General appointed an independent counsel before the White House called for it, the White House wouldn't get the benefit of calling for it, the public perception benefit?

A I think Mr. Klein would agree with that.

Q Did anyone else have a viewpoint as to that?

A I don't recall. I think it is a viewpoint with understandable merit.

Q Other than Mr. Klein, did anyone else express concern of a risk that the Attorney General was going to appoint a counsel before White House had a say in it or before the White House -- I don't want to mischaracterize it -- before the White House called for it?

A I'm sorry?

Q Was there anybody else other than Mr. Klein expressing a viewpoint at the meeting about that?

A I don't recall.

Q To your knowledge?

A I don't recall.

Q Did you express a viewpoint as to that?
A I don't believe so. Do you want me to keep going?
Q Yes.
A "Under statute, Attorney General has to go to court and court appoints. Without statute, Attorney General can appoint. Neil," Neil Eggleston. "Turning over papers brought Congressional credibility for a week or so. "GS," George Stephanopoulos, "10 stories, each two or three days, 40 days of stories and we will be up 39 percent, like 1993 with gays in the military.
Q What does 39 percent mean? In the polls?
A I would read my notes to be the President's position in the polls.
MR. SIMON: His approval rating?
THE WITNESS: Yes, in 1993. "DG" is David Gergen. "Independent counsel operates differently than criminal prosecutor. They take on a life of their own."
BY MS. FISHER:
Q Do you recall any discussion about this

statement by Mr. Gergen other than what is reflected in your notes?
MR. SIMON: At this time or at subsequent meetings?
BY MS. FISHER:
Q At the January 4th meeting.
A No, no, I don't.
Q To the best of your knowledge, what was Mr. Gergen trying to convey at that time?
A I think there is the difference between -- he was seemingly -- he was from my notes seeming to observe the difference between an independent counsel and a criminal prosecutor, that the criminal prosecutor would take on a life of its own.
Q That the criminal prosecutor would take on a life of its own, not the independent prosecutor?
A The independent prosecutor.
Q They were expressing a concern that the independent counsel could take a life of its own?
A I don't know that it was a concern. My notes, that was his observation.
Q That would refer to the scope of what the

independent prosecutor was looking into?
A I don't know what his --
Q Can you provide any more context than what is written here?
A I can't, other than what is written here.
MR. SIMON: What did you understand it to mean?
THE WITNESS: That this takes on a life of its own, that this can go on for some period of time. I don't know that he meant that as scope or what his reasons would be for this.
BY MS. FISHER:
Q Could you go on reading.
A "Joel and Joel Klein new information, no special prosecutor. You can try one at a time. Call her own press conference."
Q What did you understand him to mean or what do you understand your notes to mean, "you can try one at a time"?
A I don't know what that means. When I had reviewed this, this was cut off. It is the first time I have seen it. "You can try one at a time." I

don't know.
Q Is this the first time that you have seen the unredacted version?
A This is the first time that I have seen the bottom of this page.
MS. FISHER: Did you all get copies that were redacted?
MR. SIMON: Yes. But we also had some of the unredacted, but this particular page and a number of others were not copied with exactly the greatest proficiency.
MS. FISHER: Do you want to take a minute to review the new copies with your counsel?
THE WITNESS: Sure.
MR. SIMON: That would be very helpful.
MS. FISHER: Let's take 10 minutes.
(Recess.)
BY MS. FISHER:
Q I want to ask you a question about what is over to the side here, 20565, where it says "Call her own press conference." Who is the her? Who is that referring to?

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A I guess I would read that as the Attorney General.
Q And was there discussion that she should call a press conference that you recall?
A No, only that she could, which I would read in conjunction with the first point at the top of the page, that the Attorney General could announce this on her --
Q Could you --
A -- on her own out front naming a counsel.
Q Do you have an understanding whether anyone at the White House had talked to the Attorney General about this issue prior to the January meeting?
A No.
Q Going to the next page, 20566, could you read what is there.
A "HRC enters. Looks like a meeting I might be interested in. Watergate committee."
Q What is your recollection of what happened at that time?
A I recall that Mrs. Clinton came in and we had -- there was a discussion about again the issue

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of whether there should be a call for a special counsel or an independent counsel or not.
She stated the view as Bernie and others have elsewhere here, that there were distinctions in this instance from the Watergate committee which she of course worked on, but this did not involve government wrongdoing, that there was not -- no one had ever stated a credible charge by senior official, that the usual standard for an independent counsel being called was not met. And that was the discussion.
Q So, we have reached something that you recall that is not in your notes, basically. This is what you recall her coming in and saying on January 4th?
A Well, especially when Mrs. Clinton comes in, yes, I am able to remember it.
MR. SIMON: And he was actually able to understand what she was saying.
BY MS. FISHER:
Q Did Mrs. Clinton express a view at that point, whether an independent prosecutor should be

appointed?
A Yes. It was her view that they had done nothing improper, that the standard was not met, that documents had been turned over to the Department of Justice.
Q Did anyone at that time express a dissimilar view?
A I can remember George Stephanopoulos expressing the view that it could be helpful for the credibility of the White House for us to call for this special counsel, independent counsel, given the drumbeat that was in the press and in the public domain.
Q Other than Mr. Stephanopoulos, did anyone else express a view dissimilar to Mrs. Clinton's?
A At that meeting I don't recall anyone else, no.
Q Do you recall anything else about this meeting?
A No, I don't. I believe it then broke up. No, I don't recall, beyond that conversation.
Q Was there an attempt made at the end of the

meeting to schedule another meeting?
A I don't recall.
Q Do you recall how long Mrs. Clinton was present at the meeting?
A I would say about 10 minutes, but I can't put it exactly.
Q Is it your best recollection that after she left -- she left when the meeting broke up?
A I don't know if she stayed behind with Mr. McLarty or not. I don't know. I don't know where she went, if that's what you mean.
Q Do you recall any discussions with anyone at the White House after that meeting?
A Regarding --
Q Between this meeting, January 4th, and the next meeting, which appears to be January 5th, do you recall any discussions that you had with anyone else at the White House regarding any of these issues?
A I don't recall any specific instance. I do know during the course of that week the question of this independent counsel, special counsel or not was an internal issue as well as our efforts to try to

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have this external effort made to try to get our story out.

Q Turning to the next page, which is now marked 20567. It appears to be another meeting, January 5th. Do you recall who attended this meeting?

A My notes list Bernie Nussbaum, Joel Klein, Mr. McLarty, David Gergen, Harold Ickes. Again, I can't -- that's who my notes record. There could have been others in the room. I can't say with any assurance whether Mr. Lindsey was there, or Mr. Stephanopoulos. I just don't know.

Q What was Mr. Ickes' position at this time?

A He had just been named deputy chief of staff and he had just started at the White House at the beginning of January.

Q Was he replacing someone?

A Mr. Neil, Roy Neil.

Q Could you just read.

A Certainly.

Q They are fairly legible. I'm not completely --

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A That's fine. "Bernie, no substantive difference in independent counsel versus prosecutor. If appointment outside as counsel or prosecutor subject to no control and come in with desire to get someone. Even if a good-hearted Nussbaum would worry how it he goes back to New York City and doesn't indict anyone. You will have a three- to four-year investigation. Lives will be under a microscope. After three years, good-hearted Nussbaum will have written 400-page report. Bad-hearted guy goes in and decides a smell of corruption and can show some things of those people close around. Instance where it has worked, Billy Carter, Paul Curran (a client of mine) appointed for six to nine months, wrote report, didn't expand and went home. He is a rare guy."

Q What did you understand Mr. Nussbaum to be saying at that point?

MR. SIMON: Hold on. Do you want to look at what you just got?

MS. FISHER: I was just going to flip through them. They just appear to be phone logs, and I just want to make sure that -- let's go off the

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record for a second.
(Pause.)
BY MS. FISHER:
Q What did you understand Mr. Nussbaum's concern to be where he says "If appointment outside as counsel or prosecutor subject to no control and come in with a desire to get someone"?
A Well, I had understood during this entire period Mr. Nussbaum was a forceful opponent of the President calling for an independent counsel or special counsel for the reasons he lists here. And during the course of this week, he was very vocal at the sessions in his belief that it would -- well, in his words, have a three- to four-year investigation and in the instances he cites.
So, the entire argument he is making here and elsewhere during the week was against calling for any counsel.
MR. SIMON: Did he give an alternative?
THE WITNESS: No. He said at one point he would have preferred a Congressional investigation to calling for an independent counsel.

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BY MS. FISHER:
Q Why is that?
A I don't remember why, what his views were then. I think just that that would even be better than a protracted period of time and the pressure on the individual counsel or prosecutor to prove something.
Q What did he mean by "subject to no control"?
A I guess I would read that that there is no control on an independent counsel.
Q As opposed to a criminal prosecutor from the Department of Justice?
A No, I don't know that he would say that. I think it is just reflective of the independence of an independent counsel, that there is no control, and that is a fact of the process.
Q Do you have any greater understanding as to what he meant by no control? Whose control and what control?
A I don't. I guess I would just read it that the independence could lead to the points that he

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makes. But I don't know beyond that.
Q Well, reading up above where it says "No substantive difference in independent counsel versus prosecutor," does that put into context that he was talking about the difference between the two procedurally, that there may be control over a prosecutor, but with independent counsel there is no control?
A I don't know, or you could read it as no substantive difference in the independent counsel or the special prosecutor. There the substantive difference -- that he does not see any substantive difference.
What I remember most about this is his very ardent opposition to calling for an independent counsel.
Q And the alternative at this point was to leave it with Mr. Mackay, who was running the investigation within the Department of Justice?
A Correct. "Joel, other special counsel have been painless, Iraqgate, banking scandal. BN Bernie Nussbaum, Nick Bowen was investigating whether

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Department of Justice took computer services away from INSLAW, not as sexy as President of the United States. Iraqgate didn't touch conduct of the President of United States. It was whether counsel's office. It depends on person. Joel, independent prosecutor pursuant to a statute trigger method out of Department of Justice. Court would have picked Walsh. Can only be dismissed for cause, Donovan, Hamilton Jordan, Walsh."
Q Can you explain to me what you understood that exchange to be other than what is reflected in the notes?
A I think it was just their discussion of prior special counsels and the different circumstances that they worked under and the fact that in Mr. Nussbaum's view, they didn't have the kind of prominence because it wasn't concerning the President of the United States directly.
Q What was Mr. Klein -- what did you understand Mr. Klein to be saying when he said "Court would have picked Walsh"?
Let me rephrase that. Was there any

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discussion of a concern that the court would be the one that would pick the independent prosecutor?
A No, I don't recall that. I can't recall Klein's specific point here. He is outlining how the process works. "It can only be dismissed for cause, special counsel before the law passed, Cox, Jaworski appointed by the Attorney General without the court, Republicans bill bar use special counsel quite cleverly. They packed people."
Q Could that be "picked"?
A It could be "picked." "Picked people. Bowen, Lacey as judge."
Q Does it refresh your recollection that there was a discussion of whether -- if there was an independent counsel, who would appoint them, whether it was the court, whether it was the Attorney General?
A No. I guess I remember a generalized discussion of the legalities and process that would exist for the appointment and who would do it. But I remember most was just as I have said, the general opposition to it.

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MR. SIMON: Could this be a way of distinguishing between the different experiences of good experiences and bad?
THE WITNESS: Yes. I think Joel says at the top "Other special counsels have been painless." Bernie's point on the previous page is that Paul Curran was a rare guy. It was kind of -- it reads like their discussion of previous special counsels and their views about their tenure.
BY MS. FISHER:
Q Did Mr. Klein express a view as to whether an independent counsel should be appointed at this point?
A I don't recall Mr. Klein's view specifically.
MR. SIMON: Do you recall at any point during this week did he express a view?
THE WITNESS: I think he and Mr. Nussbaum were always observing their legal view and their arguments on the downsides of the Special Counsel.
BY MS. FISHER:
Q Could you go on in reading.

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A You bet. "Mac. Let's get off whether we will have special prosecutor or counsel. Hillary Rodham Clinton and Bill Clinton don't want it. Discussion where we go from here."

Q So, could you explain to me what your understanding was at this point of what Mr. McLarty was saying.

A I would read it that Mac interjecting at this point brought an end to the previous two-page discussion of whether or not we were going to have it since the President and Mrs. Clinton did not want it to call for a special counsel. And our discussion should turn to where we go from here, what we should be doing, given the President's decision not to call for a special counsel.

Q Is it your recollection that you knew prior to this time that the President didn't want to appoint an independent counsel? We previously discussed the First Lady's view.

A I don't know when I first learned of it. I was aware of the President's and Mrs. Clinton's view during this period, but for the reasons I have

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outlined, that they did not feel that there should be a call for special counsel.

Q So, their views were similar on the subject?

A Yes, that is my understanding. "BN," Bernie Nussbaum, "Kendall will prepare a white paper on the Clinton story on Whitewater. It may take two weeks. Prepare this along with Q and As on specific issues. At some appropriate time we release this statement. McLarty: like the traffic office report. David Gergen: It is different due to conversations versus documents."

Q I want to stop you there. What was your understanding at this point as to what Mr. Kendall was going to do and what Mr. -- or what people at the White House were going to do? Was it that Mr. Kendall will prepare the white paper and the White House will prepare Q and As?

A Yes, that's how I would read these notes.

Q And do you have an understanding of what the White House counsel's role was going to be with regard to that?

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A Regard to the Q and As?
Q Yes.
A My understanding is that they would be working on the Q and As, I guess, on the specific issues and the synopsis.
Q Is it your best recollection that Mr. Kendall was not present at this meeting?
A That's correct.
Q What did you understand Mr. McLarty's comment "Like travel office report" to mean?
A I would read it that Kendall would prepare this white paper, that we would prepare extensive Q and As and then a statement and release that in its entirety, as he had released the travel office management review.
Q Was that a Q and A-type document?
A It was an extensive chronology and synopsis and then recommendations and guidelines of how the travel office should have been handled and should be handled in the future. I think that is what he was likening it to.
Q What did you understand Mr. Gergen's

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comment to mean?
A I think he was observing -- I would read this as the difference between the travel office report and this suggested white paper, that the travel office report and management review that Mr. McLarty did was based on conversations with the affected staff members and so forth, whereas the white paper, Kendall is preparing involved documents.
So, it was a different kind of product that would have to be produced. That's how I would read that.
Q If you want to go on reading, and you can delete the expletives.
MR. SIMON: You are reading from the bottom of 569. I do appreciate your sensitivity to the deletion of expletives.
MS. FISHER: If you could just say "expletive" whenever an expletive comes up. That probably is the best way to address the situation.
THE WITNESS: "Harold Ickes: Discussion of counsel is the biggest [expletive] waste of time.

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Discuss production, press strategy, spokesperson."
BY MS. FISHER:
Q At this time, who was the spokesperson?
A It was Bruce Lindsey at this time.
Q Was there anyone else who was the spokesperson?
A No. He was the principal respondent to the bulk of the Whitewater questions. Whether Dee Dee Myers received individual questions during the press briefings, it was her practice to refer reporters to Mr. Lindsey. But she may have taken some questions.
Q Is it your recollection that Mr. Ickes was somewhat animated when he made this statement?
A I think it is certainly Mr. Ickes' style to move along a meeting agenda and not to waste any time. He does that with considerable style.
Q What is your understanding of why he thought it was a waste of time?
A Oh, because the President and Mrs. Clinton -- I would read this as similar to Mr. McLarty's comment, that the President and Mrs. Clinton --

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Q Had made their decision?
A Had made their decision.
Q Okay.
A "Joel Klein: In a couple of hours draft of Q and As need to be approved by Kendall and Hillary Rodham Clinton. David Gergen: Highest-priced law firm and no facts."
Q What law firm is being referred to there?
A I would read this --
MS. FISHER: Actually, why don't we go off the record for a second.
(Discussion off the record.)
BY MS. FISHER:
Q Do you recall what law firm was being referred to there?
A I would read my notes as saying that they were referring to the Kendall law firm.
Q What do you understand that Mr. Gergen was expressing at this time?
A I think this was consonant with our general thought during this period of time, that in order to have this affirmative effort to get our story out

about the facts on this matter, we needed to have a synopsis and Q and As and history and so forth. I think the fact that it did not already exist for preparation would take some period of time was reflected in Mr. Gergen's concern there or consternation.

Q That's what the "no facts" refers to? No chronology?

A Yes. It is chronology or synopsis or some of the things we wanted to provide.

Q So, is it your understanding that Mr. Klein was going to prepare draft Q and As in a couple of hours and then give them to Mr. Kendall to sign off on and give them to Mrs. Clinton to sign off on?

A That's how I would read it. I don't know whether he did it personally. I don't know how he was doing it. That's how I would read my notes.

Q If you could go on.

A "Harold Ickes: Push us quick with lawyers and Q and As and argumentative document. Get the argument on why not a special counsel. No evidence of wrongful acts. Can't appoint someone every time

there is a charge. There has to be a basis. Republican appointee is running investigation. Grand jury is citizens available to look at evidence and an independent Attorney General."

Q Is it your understanding that this is Mr. Ickes just presenting his view as to what needed to be done?

A Well, I guess I would read this that this is a summary of the argument on why we are not calling for a special counsel at this time, that there is no evidence of wrongful acts, can't be appointing someone every time there is a charge, there has to be a basis and a Republican.

These are kind of points that he was making, and that we have an independent Attorney General, which I believe become somewhat of the centerpiece of some of the talking points that have been provided to you.

Q That being the notes?

A Yes.

Q Do you have any knowledge whether Mr. Ickes was brought on to the White House to deal with these

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kind of issues or how he was brought into the loop with these issues?

A I don't know how he was. I don't know what conversations he might have had with Mr. McLarty. I understood that one of the -- as part of his portfolio, he would be the point person coordinating this effort to try to get our story out and get the truth out about this matter.

Q And you had that understanding before he came to the White House?

A I don't know. But I certainly had it --

Q Once he got there?

A Yes.

Q Do you have any knowledge of who brought Mr. Ickes into the White House, whose idea it was?

A I don't know. Mr. Ickes was a member of the President's campaign staff as well as the transition. I assume it was Mr. McLarty. But the President had known Mr. Ickes for some time.

Q Were you aware or did you have any knowledge that Mr. Ickes worked with Mrs. Clinton on any legal matters before she came to the White House?

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A On legal matters? No, I'm not aware of that.

Q Were you aware whether Mr. Ickes and Mrs. Clinton had a working relationship prior to Mr. Ickes coming to the White House?

A Outside of the campaign?

Q Yes.

A No, I'm not aware that they had any relationship.

Q Is it your understanding, going up to the top, that the Q and As needed to be approved by Mr. Kendall and the First Lady, is it your understanding that the President would not have to review; Mrs. Clinton would be the point of contact on these issues?

MR. KRAVITZ: It says "and Kendall."

MS. FISHER: And Kendall.

THE WITNESS: You know, I would read this as they would be drafted in the counsel's office, and I assume that Mr. Lindsey and the counsel's office would have cleared them through that process, that it would also have to be cleared by Mr. Kendall and

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Mrs. Clinton. It doesn't say the President. I would not think it would necessarily have to be approved by him, although he may have seen it. I don't know.

BY MS. FISHER:

Q Your participation in these meetings that go on in the first couple weeks of January, was it your understanding that most of the questions would go to Mrs. Clinton rather than the President?

A Most of the questions from?

Q If questions came up during the meetings. What I'm trying to get at is if she was the point of contact as opposed to the President on these issues, where she was the one expressing a view more so than the President.

A No. I think that the President's view on the Independent Counsel was well known, that he did not think that it should be called for at this period of time.

I guess I would suggest that if there were factual questions because some of this dealt with her legal work, that it would be approved by her. But I think the principal review was really their lawyer,

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David Kendall.

Q "Legal work," meaning Mrs. Clinton's legal work while at the Rose Law Firm related to Madison Guaranty?

A Or whatever, yes. That would be my understanding, yes.

Q Were there other instances where her legal work was discussed in the context of these meetings other than the work she did at the Rose Law Firm for Madison Guaranty?

A No.

Q Turning to the next page, is this still Mr. Ickes speaking at this point?

A I don't know. I would read it as such, that that was the other point to his initial point of why not a special counsel, that we have Donald Mackay, 1971, 1975, Nixon, Ford, U.S. Attorney, southern district of Illinois, then the Illinois Department of Tax, 1991 to Department of Justice career. The three points, no credible evidence, documents over, they have done enough, matter of principle/bad politics."

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Q Is it your recollection that Mr. Ickes was saying matter of principle/bad politics?
A I can't recall, but there is no other notation that anyone else said it. I think it is all joined to the general points as to why not a special counsel from the previous page as well.
Q What is your understanding of what is meant by bad politics?
A There is an acknowledgment that this is a matter of principle for the President. It would certainly be bad politics given the drumbeat and the press interest and the Congressional interest and the editorial interest that were calling for an independent counsel. He viewed this as a matter of principle, that there was not enough there to demand an independent counsel.
MR. KRAVITZ: Just so the record is clear, what you are saying is that not calling for an independent counsel was what was viewed as being bad politics?
THE WITNESS: Yes, that's correct, that in not calling for an independent counsel or special

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counsel, this was a matter of principle, that it is potentially bad politics, I think is the point of that statement.
BY MS. FISHER:
Q To the best of your recollection, was the First Lady present at this meeting?
A No, she was not.
Q Did you have any discussions after this meeting on January 5th with anyone regarding the substance of what was discussed at the meeting?
A I don't recall.
MR. SIMON: Just so that we can clarify, is it possible that during that week you have indicated there were a number -- a big topic of conversation was whether there ought to be one or whether there ought not to be one. Could there have been discussions of that nature outside?
THE WITNESS: I can help the Committee and say I don't recall a specific instance. But there may have been; I just can't recall it for you.
BY MS. FISHER:
Q Do you recall, other than what is described

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in your notes, anything independent about this meeting?

MR. SIMON: I think he has indicated some things about it.

BY MS. FISHER:

Q Other than what you have testified to.

MR. SIMON: Want to take a look at the notes and see whether there is anything? I guess my problem is, I understand we had spoken outside about the general issue. I absolutely understand. I am just trying to see whether or not -- you have been focusing on very specific entries, et cetera.

In terms of whether or not you want to take a second to reflect on whether or not you can have any specific recollection of this meeting as opposed to the whole series of meetings reflected in the notes provided to you by the Committee.

THE WITNESS: I can't beyond what I said.

BY MS. FISHER:

Q Were you tasked to do anything at the end of the meeting?

A I don't believe so. It doesn't seem to

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indicate that.

Q Do you recall this being a smaller meeting than the January 4th meeting? "Smaller" meaning not smaller in time but smaller in the amount of people that were present.

A I cannot say. I can't put the exact number of players -- participants in each.

MR. SIMON: Do you have a recollection that there were significant variations in the number of people who were attending these meetings from meeting to meeting?

THE WITNESS: No. I think there was a central core of people, but --

BY MS. FISHER:

Q You don't recall, for example, people getting eliminated as the week went by?

A No.

Q Do you recall who was responsible for inviting anyone to this meeting?

A No. I don't know where this meeting was. Given that Mr. McLarty was there, it could have well been in his office. Some of the others, as I said,

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were in the Ward room.
Q Do you know who made the decision about who would attend these meetings?
A No.
MR. SIMON: Do you know who made the decision to have Ms. Myers at one of the meetings?
THE WITNESS: No.
MS. FISHER: Good question.
MR. SIMON: You don't recall it being you?
THE WITNESS: No. I did not put together the manifest.
BY MS. FISHER:
Q Turning to 20572, the next page, do you recall a meeting with the vice president?
A No, I don't. I reviewed this page. I cannot recall whether this is notes at the end of a day, what happened during the course of a day, because they seem to be vice president and then a luncheon and then "PM" meeting, I think evening. So, it is a curious --
Q Who is that?
A I don't know. That's what I have been

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saying. The best I can help you --
Q You have already helped by saying PM isn't somebody.
A It seems to summarize a day.
Q Does it refresh your recollection that at one point during this week you did attend a meeting with the vice president?
A No, it doesn't. I have a recollection that there was an interest in having the vice president say the -- add to the voices of why there was not a need for a special counsel, that there was no credible evidence, that we have all the reasons that were previously stated.
I would read my notes that the vice president said I will do it and talk about how there was interest in the Clintons' cooperation in dumping these documents to the Department of Justice, that we had had this Justice Department prosecutor and Mackay and the reasons that we are interested.
I would read this as -- "I'm sure this will help" reads to me as frankly the vice president's self-deprecating humor.

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MR. SIMON: What do you mean by that?
THE WITNESS: "I will do it," I will say that, but given the --
MR. KRAVITZ: "Cacophony of voices in this drumbeat, I'm sure it will help" is a self-deprecating joke that I'm sure it will help, meaning this is a tall order.
MR. SIMON: Sarcastic.
THE WITNESS: I would read it in tandem with the second meeting, there was a luncheon and perhaps in a pool spray it was going to be asked. We anticipated a question on this. My notes say "No question on Whitewater. I assume that is no press question on Whitewater. PM I would best read as in the afternoon Lindsey notes that Kendall aware of subpoena."
BY MS. FISHER:
Q Going back up to the top, "Need to dump all documents," was that the vice president's view of what should be done?
MS. METLIN: Can you clarify "dump documents."

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THE WITNESS: I would read that as the Clintons have in their production to the Department of Justice acknowledged the need to dump all the documents and to be as cooperative as possible.
MR. SIMON: Dump where?
THE WITNESS: I would read this as the Department of Justice.
BY MS. FISHER:
Q Your understanding is that the vice president has said that the -- is saying that -- explain that again.
A I would read this as that the vice president would make the argument for why -- in response to a question about a special counsel or special prosecutor would make the argument as to why there was not a need for a special prosecutor, which is what we discussed in previous meetings, I will do it, I'm sure it will help.
Q I understand that far.
A "Need to dump all documents." I don't know that he said that. But the note I guess I would read is that the Clintons have seen the need through their

cooperation with the Justice investigation as the importance and the need to dump or to provide all the documents to the investigators.

Q So, it is your best recollection this would not refer to, for example, the Vice President's view that the Clintons need to make sure that they have given all the documents to the Department of Justice?

A No. I don't think there was any ever question that they weren't all given to the Department of Justice. I'm not aware of any question to that effect.

Q On the bottom where it says "PM Lindsey notes that Kendall aware of subpoena."

A Yes.

Q This is January 5th.

A Right.

Q And the subpoena was issued in December.

A Correct.

Q So, could you explain to me what this might refer to?

A I guess I would read this as a question of when Mr. Kendall called the Department of Justice to

say that the President was going to be turning it over, he requested a subpoena from the Department of Justice. There was a question, I believe, in the press as to whether there was already a prepared subpoena for these from the Department of Justice.

I would read this as that Kendall is aware of subpoena, aware of a subpoena from Justice.

Q Prior to the time that he got it?

A Prior to the time he requested it.

Q So, it is your best recollection that Mr. Kendall was aware or at least that you were told that Mr. Kendall was aware that there was a subpoena being prepared by the Department of Justice prior to the time that Mr. Kendall contacted the Department of Justice to request a subpoena?

A It is my recollection that there was an issue about this. What I recall someone terming the nanosecond of who asked who first for the subpoena. I believe that refers to that issue. That's about all I can help you with that.

Q Were you aware of any negotiations or discussions between -- strike that.

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Were you aware of any discussions between Mr. Kendall and the Department of Justice regarding the subpoena?

A I was told in December that he was requesting a subpoena to protect the documents.

Q What was your understanding of how the subpoena would protect the documents?

A I guess my understanding was that they would protect them in its confidentiality, that they would not be -- that they could be preserved as confidential to the investigators.

Q So, it was your understanding that if Mr. Kendall turned the documents over to the Department of Justice, they would remain confidential to the --

A To the investigators.

Q And do you have an understanding -- so, they would not be made public?

A Correct.

Q Do you have an understanding of -- was it discussed at all how this would affect any later investigations into this matter?

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A I don't know.

MR. KRAVITZ: Off the record.

(Discussion off the record.)

BY MS. FISHER:

Q I think this is where we have a divergence, and I'm not sure, but I think that 573 -- okay, 573. I think that is the next page from your notes.

A Yes.

Q Is it your best recollection that this would have been a meeting on the 6th of January or another meeting on the 5th of January?

A I can't point -- it is consistent with this period where there is stated the needs. This is consonant with my recollection of that time period of wanting to have a more aggressive plan in terms of the information that we would have, a two-pager, Q and As, talking points, narrative, comprehensive and chronology.

Q Do you have an understanding of who was at this meeting?

A I don't.

Q Do you have an understanding of who was

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going to prepare what?
A Well, my understanding is the bulk of it was in the counsel's office.
Q So, the counsel's office was going to prepare the chronology?
A I believe that's right.
Q And do you know who in the counsel's office was going to be preparing that chronology?
A I don't know. Between Mr. Klein and Mr. Eggleston, I don't know how they divided it.
Q Do you have an understanding of why it was decided that at this point it was going to be the counsel's office that prepared the chronology as opposed to Mr. Kendall?
A No, other than the previous notation that they were working on this white paper, so-called white paper.
MR. SIMON: "They" being Kendall?
THE WITNESS: They being Kendall's firm, yes.
MR. SIMON: Which was a further document?
THE WITNESS: Correct.

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BY MS. FISHER:
Q Going to the next page, 20574, which is dated at the top January 6th at 5:30 p.m., another meeting, I take it, on Whitewater; is that correct?
A That's correct.
Q Do you recall who attended this meeting?
A I don't. This is one of that whole series of meetings that week that I can't place a very good manifest for you.
Q Do you recall who brought up the issue of Beverly Bassett?
A No, I do not.
Q Do you recall whether this was the first time you heard of an issue regarding Beverly Bassett or the first time that Ms. Bassett came up in discussions?
A I don't recall when the first I heard of it was.
Q Were you made aware at any time of some handwritten notes that the President had written to Mr. Lindsey or Mr. McLarty regarding Beverly Bassett Schaffer?

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A I am aware of that through the press accounts.
Q The recent press accounts?
A Yes.
Q Were you aware of that at the time?
A I don't believe so, no.
Q Were you aware of The New York Times editorial that came out in December of 1993 which mentioned Madison and Beverly Bassett Schaffer?
A I can't recall it. I normally read editorials, But I don't recall it.
Q Do you recall learning that the President had an interest, a specific interest, in the issues relating to Beverly Bassett Schaffer?
A No.
Q Do you recall who was speaking here about this issue?
A I don't. It is not noted, so I don't know.
Q If you could just read it.
A "Beverly Bassett letter info. BL," Bruce Lindsey," Waldman."

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Q Who is Waldman?
A Michael Waldman is a member of the President's staff in the communications office.
Q Was he present in this meeting?
A I don't know if he was present in this meeting. He was, as I have said, in some of the other meetings. I don't know.
Q What is the reference to letter or info?
A I don't know whether that is the letters that were exchanged that had been reported on during the time of this issue of the correspondence with Mrs. Clinton and just general info about Beverly Bassett.
Q Do you have any knowledge of a letter that Ms. Schaffer wrote to the White House or any member of the White House around this period of time?
A No.
Q Are you aware of any discussions that anyone had with Ms. Schaffer in December or early January of 1994 prior to January 6th?
A No.
Q Okay. Keep reading.

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A "Get a lawyer to check law on issue witness of preferred stock. Independent panel of regulators."

Q Do you know what that refers to?

A Well, I would read this as again reflective of my recollection of this period of time, that we needed to have the materials that were outlined on the previous page and have the information so that we could have a more intensive effort to get the truth out about the facts of this matter. There was an interest to make sure that on one level that we would not be misstating what Ms. Schaffer has previous -- had previously said about this matter.

On a second level, to make sure that whatever she did was in accordance with what should have been done so that before the White House represented something in our strategy of Q and As or op eds or any of this, that we had accurate information.

There was press reports about White House handling of this period of time, and I think there was an interest to try to get a lawyer to check on

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the issuance of preferred stock to make sure we had the accurate information. Because if we were in a position where the White House credibility was in question, we would be not doing our jobs correctly.

Q Is it your understanding that Bruce Lindsey and Mr. Waldman were going to be in charge of this effort with Ms. Schaffer?

A I don't know. In charge, or Bruce was going to work with Waldman to make sure we had all the information we needed before we represented any of it.

Q What was Mr. Waldman's role with respect to these matters?

A He was a participant at these meetings, as I have said. He is a lawyer by training and on the communications staff. He was asked seemingly in this to work on it.

Q Do you have a recollection why the issue with Ms. Schaffer as opposed to other issues relating to Whitewater and things like that was what seemingly appears to be from your notes one of the prominent issues that were discussed in these meetings

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regarding independent counsel and other matters?
MR. KRAVITZ: I object to that question. I actually think it is not accurate to say that Mrs. Schaffer is a major issue in these meetings. I think this is the first meeting that we have talked about that notes have reflected that Ms. Schaffer was even discussed.
MS. FISHER: It goes on to discuss her next notes.
BY MS. FISHER:
Q What I'm just trying to get, and I apologize for my --
MR. SIMON: Would it be a fair characterization to say why she was an issue, whether than a major issue?
BY MS. FISHER:
Q That's what I'm trying to get at. If you have any knowledge or what your recollection is as to why she came up?
A What I remember most about the week of the discussions was the Independent Counsel. I guess I recall in some of my notes that the issue of Madison

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Guaranty getting special treatment was what was most at issue during this time.
Q It was one of the major concerns at this time?
A I don't know if it -- I guess it was --
MR. SIMON: It was an issue where? I know you are tired, Mark, but I think you need to complete it. Was it an issue in the press or in the White House? Where?
THE WITNESS: It was an issue in the White House. As other notes mention -- I don't know if you want to get into this here, but on 575 it says "Most important thing to prove next week," which is that the -- if the issue in the press or the questions that were being raised if there was preferred treatment for Madison Guaranty, that public statements by Beverly Bassett Schaffer would be relevant.
BY MS. FISHER:
Q Let's go on. Over on the side, do you know what that refers to?
A I don't. "P. lawyer White House." I don't

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know what that is.
MR. SIMON: Do you have any recollection of what has been redacted there that is next to that?
THE WITNESS: Yes. There was information on working with press assignments and getting different --
MR. SIMON: Could you be more specific.
THE WITNESS: Press assignments of who was going to be on what shows, what materials would be provided to the weekend shows about this. It was all part of the general strategy of our effort to make sure that we had credible information out to the press.
BY MS. FISHER:
Q Turning to the next page, January 7, 1994 meeting. Do you have any independent recollection of who attended this meeting?
A I don't, beyond the notations of people who were there and a variation of some of the names I testified to prior.
Q Reading number 1, "Reno denial, haven't decided." Do you have any independent recollection

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what that refers to?
A Well, I would read that that she had been quoted that she has not decided yet whether to call for a special counsel.
Q Do you have any knowledge of any discussions going on between the White House and the Attorney General at this time regarding whether or not to appoint an independent prosecutor?
A No.
Q Okay. Going down.
A "3. We cannot affect the scope of the prosecutor. Politically fewer questions to lesser the exposure."
Q Do you recall who was saying this statement?
A No, I don't.
Q Do you have an understanding what this refers to?
A I think we are getting back to the previous discussions of whether we would have a special counsel or not, in that politically there would be fewer questions to lesser the exposure, meaning the

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questions asked to the White House.
Q If an independent prosecutor was appointed?
A Correct, because then it would be within the province of the independent counsel or special counsel for this matter to be reviewed.
Q Was someone expressing concern -- who is the "we"? The White House?
A I suppose anyone. No one can affect the scope of the prosecutor.
Q Do you recall anyone expressing the concern regarding the scope and the fact that there was an inability to control the scope of an independent prosecutor?
A No.
MR. SIMON: Excuse me one moment.
(Counsel conferred with the witness.)
BY MS. FISHER:
Q Did you want to say anything further?
A No, other than fewer questions to lessen the exposure is the public context of this. Fewer questions would be asked once a prosecutor was named.

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Q Number 4.
A "Madison Guaranty not getting special treatment. Most important thing to prove next week. GS:," George Stephanopoulos, "James taught us on the campaign to be about one thing."
Q What is your understanding of why this was the most important thing to prove at this time, beginning of January 1994?
A I guess I would read it because that's what was probably at the center of a lot of the articles and the press inquiries, that there was a question of whether Madison Guaranty received special treatment and in proving that they did not receive special treatment, that that would be the most important thing that could be accomplished in defense of the President and Mrs. Clinton.
Q What was the plan on how to prove this, if there was one, that you are aware of?
A I think it was the overall plan to be more aggressive in our presentation of facts through some of the Q and As, the synopsis, the op ed pieces, the surrogates that could be represented on this. That

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was the plan on the externals for how we would do this. It did then -- there was also the side piece of making sure we had the requisite information from this, which I previously testified.

Q Could you read number 5.

A "PB," Paul Begala, "BL," Bruce Lindsey, "Waldman, to Arkansas to meet with Beverly Bassett, try to poke holes in their story."

Q Who is "their"? What is their?

A I guess "their" is those that are alleging that there is special treatment by Madison, that there was special treatment for Madison Guaranty.

Q Who is PB?

A Paul Begala. "Tried to get independent validation from securities attorney. Search of Arkansas regulation."

Q Was there someone that was going to do these two things outlined at the bottom?

A I don't remember any tasking. But I do recall the importance of if we were going to have this aggressive external outreach, whether it is through op eds or surrogates or whatever, that we

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wanted to make sure that all of the facts were accurate.

And trying to get independent validation from a securities attorney to corroborate what had previously been said by Beverly Bassett Schaffer would be one, as well as search of Arkansas regulation, again, to make sure, I would read this as, that what we were stating that we would not misstate any fact. Having been a reporter for a little bit, I thought this was -- this seems reasonable.

Q Was it your understanding that the discussion included discussion of whether one of these people, Paul Begala, Bruce Lindsey or Mr. Waldman should go to Arkansas to meet with Ms. Schaffer?

A The question is whether they --

Q Whether it was discussed that somebody should go to Arkansas.

A I read this as this is someone's suggestion. That's how I would read that statement, yes.

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Q Was there any discussion of whether it was appropriate for someone from the White House to go speak to Ms. Schaffer, especially given that there were discussions ongoing about whether an independent prosecutor was going to be appointed?

MR. SIMON: Are you asking in the context of the independent prosecutor or whether or not it was appropriate, period? I don't understand the question.

BY MS. FISHER:

Q Was there discussion about whether it was appropriate?

A Given the Independent Counsel?

Q How about whether -- did anyone say anything about whether this was an appropriate thing for the White House to be doing

A I guess the only thing that I can recall is Mr. Ickes saying we can't send them, which is on 2520577. "We can't send PB, MW" it will come out.

Q Meaning that --

A There would be another story. It would seem like a White House overreaction.

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Q Other than it being appropriate in the press context, was there any discussion about it being appropriate?

A Beyond this, no. I -- Mr. Ickes spoke to it. I don't recall it anywhere else in the meeting being a subject other than what I noted here.

MR. SIMON: Can we get a clarification of what the "it" is.

MS. FISHER: Sending someone out to Arkansas to meet with Ms. Schaffer.

MR. SIMON: Okay.

BY MS. FISHER:

Q Was there a discussion at this meeting about the First Lady's prior representation of Madison while the First Lady was at the Rose Law Firm?

A I don't recall that, no.

Q Did you have any contact with Ms. Schaffer?

A No.

Q If you could read. Is that a DG there?

A Yes. David Gergen. "Hillary Rodham Clinton leaves in two hours. Bill Clinton to

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Europe. Get in a group of attorneys to discuss special or independent prosecutor. Get dragged kicking into court for," I guess that is "independent prosecutor."

Q What do you understand Mr. Gergen --

A I understand the Gergen point to be that we should bring in a group of attorneys, prominent, respected attorneys, as I recall, to discuss the pros and cons of whether the President should call for an independent or a special counsel.

Q What was the reference to getting dragged kicking into court for independent prosecutor?

A I guess so that we would have the benefit of their counsel, their advice before anyone was dragged in, before it was announced, before the President decided, I guess, is what that could mean. Gergen wanted to have people come in and eventually people were. Advice was solicited to discuss this issue.

Q So, could you explain that reference one more time. I'm sorry. I'm not understanding. Who would get dragged kicking into court for independent

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prosecutor? Who would get dragged in kicking into court? I don't understand how that relates to bringing in people to discuss the issue, I guess.

A I guess I would read this -- I can't remember it more than my notes here. That we would have the benefit of this advice before any independent prosecutor was named.

MR. SIMON: Are you getting back to the fact that the President be up front on this decision before someone else --

THE WITNESS: Yes. That's how I guess I would read it today, but I can't recall that.

BY MS. FISHER:

Q Could you go on reading.

A "Lead to argument on statute of limitations. Can be used as our friend for argument on special counsel."

Q What is your understanding of what Mr. Gergen is referring to there?

A My reading of this would be that Mr. Leach might have been saying at the time that the statute of limitations was running out on some matter

associated with this and it could be used as our friend for the argument to have a special counsel to the President, so that there wouldn't be an issue that the statute of limitations had lapsed.

Q Okay. Go on.

A "All agree (but Bernie Nussbaum) that Reno is boxed once independent counsel starts."

Q What is the reference to box?

A I guess that would be read to be once the Independent Counsel starts, the matter would be out of the Attorney General's hands.

Q Why did Mr. Nussbaum disagree with that?

A I don't know. I can't recall what his view was on that.

Q If you could go on reading.

A "Harold Ickes, special counsel, three major problems: 1, Hillary Rodham Clinton adamantly opposed; 2, Reno has shut the door; 3, if we ask, it looks like we have ducked."

Q What did you understand Mr. Ickes to be saying by "Reno has shut the door"?

A I can't recall. I guess I could read that

as she will make up her own mind on this. She is an independent Attorney General. She has said that she hasn't decided, that she has shut the door, that she will decide and announce it on her own.

Q What about "If we ask it looks like we have ducked"?

A I would read that as if we ask for an independent counsel, it becomes a private investigation. That may appear to some that we have ducked or tried to cloak this in some secret proceeding.

Q That was Mr. Ickes' view?

A I don't know that that was his view. That's what he says the three major problems are.

Q What about the next reference?

A "Boxes going before some prosecutorial authority anyway."

Q What does that refer to?

A I assume that refers to the fact that the boxes were turned over to the Department of Justice in December.

Q What is the reference "before some

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prosecutorial authority" then?
A The boxes are going before, meaning they are going to be presented to or given to a prosecutorial authority anyway. Therefore, a prosecutorial authority has, I read this, as the relevant information.
Q Meaning Mr. Mackay?
A Correct.
Q Could you go on.
A "BN:," Bernie Nussbaum, "don't want special counsel or independent prosecutor. Prefers Congressional hearings to prosecutor or counsel."
Q I think you testified to this before. This was Mr. Nussbaum's view, that Congressional hearings would be better than having a special prosecutor?
A That's correct. "HI:," Harold Ickes, "meeting of attorneys outside of White House."
Q What does that refer to?
A I think that refers back to Mr. Gergen's point, that we should get in a group of attorneys to discuss whether we should have a special counsel or independent counsel.

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Q Okay.
A "Beverly Bassett is so [expletive] important. If we [expletive] this up, we are done. Let's not talk it to death. Let's just get it done."
Q What is Mr. Ickes referring to here?
A Well, I would read this as that Beverly Bassett --
MR. SIMON: Do you want him to start at what point? The whole Ickes comment or the Beverly Bassett?
MS. FISHER: The Beverly Bassett comment.
THE WITNESS: That is that her prior statements are extremely important.
BY MS. FISHER:
Q You are certain that this -- this shorthand, and I don't know shorthand is "important"?
A That's correct. That's my "important." The entire sentence is correct, that Beverly Bassett is so important to the -- our effort, which had been previously stated, the most important thing is that there is no special treatment of Madison Guaranty.

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Her prior statements on this are very important.
Q So, what is the White House's concern about -- go on and explain to me more what he goes on to say.
A "If we [expletive] this up, we are done." I think that is twofold. Number one, if we misstate what she has previously said, we will have a credibility problem within the White House. Number two, that we need to make sure that what she did as a matter of Arkansas state regulatory law and securities law is accurate.
Previous notations have mentioned the need to have an independent panel of regulators, a search of Arkansas regulation. I think this is consistent with our effort that if we were beginning to embark on an intensive effort to get the truth out to represent the circumstances of this, that we needed to make sure internally in the White House that we had our facts straight.
Q Go on to the next page. That is probably the best.
A The last sentence, "Let's not talk it to

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death. Let's just get it done." One could read that as the meetings -- the first point of the meetings outside of the White House, let's get that done, which later the notes say was done. Or let's again make sure that we have the facts concerning what Beverly Bassett has said in the matter of law and securities law is accurate. Let's get it done. That's how I read it.
Q Why don't you read the next entry.
A "Harold Ickes: We can't send Paul Begala, Bruce Lindsey, Mike Waldman. It will come up."
Q That is in the context of sending one of them out to see Ms. Schaffer?
A Yes.
Q PB is Paul Begala. Do you know who Paul Berry is?
A Isn't he a reporter on TV?
Q That's another name that has come up.
A I think he is the anchor on Channel 7. I was referring to Paul Begala. I don't know who Paul Berry is.
Q This is said in the context of sending

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someone out to talk to Ms. Schaffer; is that correct?
A That's how I would read it, yes.
Q Mr. Ickes is concerned that it will come out in the press if that is done; is that correct?
A That's how I would read it, it would be another story and it would show the White House as somehow overreacting.
Q Was there discussion at this point that Mr. Lindsey had seen Ms. Schaffer in December of 1993?
A No, I don't recall that.
Q Was there any discussion at this point about anyone having talked to Ms. Schaffer prior to this time?
A No.
Q Go on.
A "Item by item make sure her story is okay."
Q Was there a concern about what her "story" was, expressed by Mr. Ickes?
A No. There was a concern that if we were going to --
Q Other than what you testified to before.

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Never mind. Go on. I didn't mean to interrupt. I'm sorry.
A I would read this as we did not want to misstate what she has previously said about this issue, number one, and number two, to make sure if the White House is going to be representing it in this strategy, that it is factually as a matter of Arkansas law that could be perhaps done with an independent panel or the other instances that I referred to to make sure that is okay, to make sure it is accurate, that we make sure we have our facts straight, to make sure we have our ducks in a row in terms of the facts that the White House would be presenting.
Q Could this refer to the fact that Mr. Ickes is referring to sending someone out to talk to Ms. Schaffer and go over her story item by item?
A I don't recall that. That's not how I read it.
Q Go on reading.
A "Tisdale? In Lindsey's firm. Skip White House pass. PB friend. New York lawyer? Quinn

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arm's length."
Q What is your independent recollection of what these notes refer to at this time?
A One could read it that these would be people we would consult, other outside attorneys, about whether we would have an independent counsel or not. Or these would be people that could assist in making certain as a matter of Arkansas law -- Lindsey's firm is a Little Rock firm -- that the actual factual basis of what has been said previously by Ms. Bassett Schaffer or what was actually done is corroborated as a matter of securities law.
That could be some of the people we would suggest, or someone to speak with her. I don't know. I cannot -- it could be any of those.
Q Putting it in context of the earlier --
MR. KRAVITZ: I want to interrupt for one second. I want to make sure the record is clear. The last question was do you have any independent recollection of what these lines meant, and your answer, as have some of your other recent answers, began with "Well, it could be read to mean that" and

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you went on. I don't know. My sense is that what you are saying is that you don't remember exactly what this means and you are just kind of speculating.
THE WITNESS: Yes. It is getting late, I guess. To answer the direct question you had, no, I don't have any independent recollection.
BY MS. FISHER:
Q Given the top line says "We can't send PB, BL, MW," and then it lists "Tisdale Skip PB friend," does that help refresh your recollection at all that it might have been a list of who would possibly be sent out to speak with Ms. Schaffer about her "story"?
A No.
Q Who is Skip?
A Skip is probably Skip Rutherford.
Q What was his position at the White House?
A He did not have a position at the White House.
Q What does "WH pass" mean?
A White House pass. Some members of either

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consultants to the DNC or other advisors to the President at this point in time, I believe, had a White House pass.

Q Do you have an understanding of why that would be referenced here?

A I don't.

Q Who was Skip Rutherford?

A He was an executive. He worked in Arkansas, in Little Rock at the energy company that Mr. McLarty ran.

Q Did Mr. Rutherford become involved in any of these discussions or Whitewater-Madison issues at this time?

A Not that I'm aware of.

Q Did you ever have any conversations with Mr. Rutherford regarding Madison or Whitewater issues?

A No, I don't believe so.

Q Do you recall learning that anyone outside the White House had conversations with Mr. Rutherford regarding Madison or Whitewater issues?

A No.

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Q Do you recall -- do you have any knowledge that Mr. Rutherford spoke to anyone in Arkansas to try to gather facts relating to Madison or Whitewater issues?

A No.

Q The "Quinn" refers to Jack Quinn?

A I would presume that's who it is, yes.

Q Do you have an understanding what the reference to arm's length means?

A I have no independent recollection of this. I don't know whether that is Harold's report of Jack Quinn's view, or if Jack was at the meeting. I don't recall him being at the meeting. Arm's length, I would view that as arm's length from the White House.

(Recess.)

BY MS. FISHER:

Q Going back to -- where were we? I think we exhausted -- 20578, January 7th meeting in Mr. McLarty's office.

A "Harold Ickes: To try to reopen it with us. Impossible, President can't, staff can't,

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Christopher to speak to the First Lady or Bob Barnett."

Q What does that refer to?

A I assume this is the ongoing issue of whether we would have an independent counsel or not.

Q Try to reopen what?

A The debate.

Q To try to --

A The debate on whether we would have an independent counsel.

Q And what is your understanding what he meant by "impossible?"

A That it is impossible.

Q Go on and tell me what you understand the next reference to be.

A "President can't, staff can't, Christopher," I would assume that is Warren Christopher and "speak to the First Lady or Bob Barnett."

Q Do you have an understanding why those two individuals would be named?

A Secretary Christopher was someone that

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President and Mrs. Clinton had enormous respect in as a lawyer and a knowledgeable Washington hand.

Q Could this possibly refer -- does this refer to an attempt to reopen it with the First Lady and that's why there are people listed here that could possibly talk to her?

A I think that is what that entry could mean.

Q So, the President couldn't raise it with her, but maybe Mr. Christopher or Mr. Barnett could? Is that a fair reading of it?

A I don't know what Harold meant specifically, whether it is can't reopen it or not.

Q But it is reopen it with the First Lady?

A That Christopher would talk to the First Lady, correct.

Q Do you have an independent understanding of what the First Lady's position was as of January 7th, 1994? Was that still --

A My understanding was that her opinion had not changed. "Client spoke with lawyers."

Q Okay.

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A "BN," Bernie Nussbaum ": Indictments will be Betsey Wright."
Q What does that refer to?
A I think this is Bernie's, as I testified before, his rather forceful viewpoint whether we would have an independent counsel or not. It was rather extraordinary statements that indictments could even go as far as someone as unrelated as Betsey Wright. Bernie had a very strongly held view on the Independent Counsel and argued it, as I have said, quite forcefully.
Q Do you have an independent recollection of Mr. Nussbaum talking about indictments in relation to Betsey Wright?
A No, no.
Q So, this is what you are reading into your notes at this point?
A Yes. I mean, as I have done with all of your questions. I can tell you that there was not a discussion, a serious discussion that he was suggesting that there was facts to indict Betsey Wright by any stretch.

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MR. SIMON: Was this part of his hyperbole about why Independent Counsel, how far they can go?
THE WITNESS: This is Bernie Nussbaum's argumentation. This was not a serious suggestion of a legal matter. It was a hyperbolic addition to the debate on whether we would have an independent counsel.
BY MS. FISHER:
Q Did you have an understanding as of January 1994 of who Ms. Wright was?
A Yes.
Q What was your understanding of that?
A That she was on the governor's staff for many years, served as chief of staff and served on the campaign, but was in private business during the administration.
Q Did she play some sort of consulting role --
A No, I don't believe so.
Q -- during the administration?
A No, not that I'm aware of.
Q Were you aware that Ms. Wright was in

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Little Rock during January 6th and 7th of 1994 searching for documents relating to Whitewater?
A No.
Q I guess the 8th of January, next meeting.
A "Ward room, Bernie, argument against special prosecutor. Harold Ickes, when Kendall called on speakerphone were two FBI agents and Jim Nixon, those guys are expletive us blue."
Q What do you understand this reference to refer to? Not the last one. In general, what was Mr. Ickes trying to convey or what is your understanding what Mr. Ickes was trying to convey?
A I would read this as a follow-on to Mr. Nussbaum's argument for a special prosecutor. Harold's observation that given that when Mr. Kendall called on the speakerphone there were two FBI agents in Jim Nixon's, it is an observation evidencing that Department of Justice was proceeding in a rather independent fashion as well, that there was obviously no laxity in its treatment of the investigation on Mr. Mackay and his investigative team.
Q What was your understanding of why he

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called Mr. Carver a bad guy?
A I don't know.
Q Was Mr. Ickes expressing concern at the Department of Justice's handling of the matter?
A No, I don't recall that.
MR. SIMON: Could I clarify? Was Mr. Ickes essentially saying that although Mr. Nussbaum doesn't like the special prosecutor, the Justice Department is just as independent and just as tough so you are not going to -- there is no great advantage in the status quo?
THE WITNESS: This shows there is no laxity on the Justice part. That's what I testified. That's what I thought I said.
BY MS. FISHER:
Q Is that your recollection of what he was saying, what your counsel just --
A Before my counsel spoke, I thought I testified that this is -- I could read this as a follow-on to Mr. Nussbaum's comment, that the process at Justice obviously did not evidence any laxity on the part of the investigators at Justice regarding

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this matter.
Q Did you have an understanding -- strike that.
Did you have any knowledge that Mr. Carver had initiated an investigation into matters involving the White House counsel's office, namely Mr. Eggleston obtaining confidential documents from the SBA in November of 1993?
A No.
Q Was that discussed at all in any of these meetings?
A No.
Q In the context of Mr. Carver?
A No.
Q Going on to 20580.
A "Conversation with President of the United States for release of statement, story nationwide, not just insiders."
Q When was this discussion?
A I believe this was a discussion I had with the President in advance of issuing the statement of December 23rd, 1993, where he turned over his

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documents to the Department of Justice.
MS. FISHER: I'm sorry. Please read that back.
(The reporter read the record as requested.)
BY MS. FISHER:
Q Was anybody else present at this conversation that you had with the President?
A I recall this as a telephone conversation.
Q Was this your only conversation with the President regarding Whitewater and Madison issues?
A I can't recall any other conversation specific, specific of this press release.
Q If you want to just read it, that would be helpful.
A "Make clear on own accord on off chance it may be helpful. Not because anywhere by anyone any authority said wrongdoing. Lost money. Never received any inquiries. Why now? No indication of anyone in government. If you want it, we will let you see it. Very important re: No one has ever suggested we did anything wrong, may be helpful. Restate basic facts dealing with intellectually

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dishonest people, do not know, care of truth. Congressional investigation if anything in it."

Q Do you recall anything independent of these notes about your conversation with the President?

A Only that I was in my office and I called him at the residence, that it was in the period when we were issuing the statement about it and that I wanted to get his guidance and approval of the statement that was issued in my name.

Q What is the reference dealing with intellectually dishonest people?

MR. KRAVITZ: Do you really want to know the answer to that? I'm sorry.

MS. FISHER: I don't know if he means he was dealing with them in the '80s or at the White House.

THE WITNESS: I think this is a comment of those who were political opponents or a conservative press.

BY MS. FISHER:

Q What is the reference "if anything in it"?

A I think it is if anything in it that could

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be helpful, similar to page 20580. "If you want it, we will let you see it."

Q On 20583, the reference "HRC," please read that.

A Yes. I should note for the record, I don't believe this is part of the conversation with the President.

Q Okay.

A It is just other notes. "HRC." I don't know what that is. "Will" perhaps. "Comment on release."

Q That was the statement you were preparing, the press release?

A Yes.

Q 20585, do you know what these notes are? Do you know the context in which you took them? Do they relate to the meeting with the President?

A I think it would just be notes associated with the release. Certainly the 1, 2 and 3 I would read as notes to myself about what the anticipated press questions would be that I would receive, "why now, New York Times, what's in it."

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Q What's in what?
A What's in the documents.
Q The Whitewater documents?
A Correct.
Q "Why now" meaning why is the subpoena being issued now?
A Why has the President elected to turn over these documents now.
Q What is "together, not lawyers"?
A Together, I don't know whether that -- whether that is they would be issued by the President and not lawyers. I don't know.
Q Did you know or were you aware that Ms. Schaffer attended a movie at the White House in January 1994?
A I'm aware of it through press reports.
Q Were you present at the movie?
A No, I don't believe so.
Q Did you ever learn or gain any knowledge as to any matters that were discussed with her when she came to the White House?
MR. SIMON: Other than in press reports?

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THE WITNESS: No.
BY MS. FISHER:
Q So you had no discussions about that?
A No.
Q Did you attend the President's mother's funeral in January of 1994?
A No.
Q On your notes, I just want to get you to identify them, 447 in the big packet.
A I'm sorry? The number again? 204 --
Q 20447.
A Got it.
Q Do you recall the context in which you took these notes?
A I believe these are notes that could be read in tandem with 20451. 20451 are notes from a conversation with Michael Isikoff, who was a reporter who asked me these questions.
Q Do you recall when this occurred? Was it in October of 1993, September of 1993?
A I don't recall. It is not dated and I don't recall. 20447 seems to be the answers to the

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questions posed by Mr. Isikoff in 20451 and 20451A.
Q On 447 at the top it stays "dec," "decision of U.S. Attorney's Office in Little Rock, no reason to"?
A "Comment."
Q Did you have knowledge at that time who the U.S. Attorney's Office in Little Rock was?
A No.
MR. SIMON: Who the U.S. Attorney was?
MS. FISHER: Yes.
BY MS. FISHER:
Q Do you know what the decision here that is being referred to?
A No, I don't know what this is referring to.
Q Do you know whether it would have related to the U.S. Attorney in Little Rock's decision to decline the referral relating to Madison?
A I don't know what it refers to.
Q Going back to the meetings in February of 1994 and late 1993, did you have any contact with Mr. Hubbell during any of these meetings?

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MR. KRAVITZ: What meetings in February 1994?
MS. FISHER: I mean January 1994. I apologize.
THE WITNESS: Regarding these issues?
BY MS. FISHER:
Q Regarding Madison, Whitewater, independent prosecutor?
A I don't believe so, no.
Q Did Mr. Hubbell's name ever come up in any of the discussions?
A Not that I can recall.
Q Do you have any knowledge whether Mr. Hubbell knew of criminal referrals relating to Madison --
A No.
Q -- in the fall of 1993?
A No, I don't know.
Q Do you know whether there was an effort within the White House on the part of any individuals to attempt to collect or obtain information related to David Hale?

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A No, I don't know that.
Q I want to direct your attention to this memo that is 20448 dated 12/2/93.
A Yes.
Q Do you recall receiving this memo?
A No.
Q And I don't know -- it goes on and it includes up to 450, I believe?
A Correct, yes.
Q Do you know whether the White House routinely received memos from SBA public affairs office?
A I can't say any instance specifically of the SBA. I do know the press office has a daily cabinet conference call with the public affairs agencies with the press office assistants where they report in on what events of the day or any press stories to report in on.
Q Do you recall any discussions in the White House in December of 1993 relating to Mr. Teckler at the SBA?
A No.

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Q On the cc on page 450, the first one is "Erskine." Do you know who that refers to?
A That is Erskine Bowles, the SBA administrator.
Q He was SBA administrator as of December of 1993; correct?
A Correct.
Q Mr. Bowles has testified that he had recused himself from Capital Management issue as of November of 1993. Do you have any knowledge as to why Mr. Bowles was receiving a memo relating to Capital Management as late as December of 1993?
A No.
Q Do you have any -- did you have any discussions relating to Capital Management or David Hale with Mr. Bowles?
A No.
Q Did you have any knowledge of anyone in the White House having any discussions with Mr. Bowles relating to David Hale or Capital Management?
A No.
Q Going to 457, if you could read that for

me.
MR. SIMON: For the record, Counsel, I believe 457 is a personal note that has no bearing whatever on this matter, and it should not have been produced by White House counsel. We were not consulted before it was. Obviously it has nothing to do with the subject of this. It has to do with a wedding and a note from a friend.
MS. FISHER: "Wedding," instead of "meeting."
THE WITNESS: "You missed a great wedding."
MR. SIMON: The reason it may have been produced, there are notes that may be on the other side of it.
BY MS. FISHER:
Q Do you recall whose wedding it was?
A No.
Q Turning to 458, 459, 460, 461, I don't know if there is a particular order these go in or if they are all related to the same thing, if you know?
A The only order I could suggest is the 1, 2,

3.
Q The circumstances -- do you recall the circumstances around which you took these notes?
A I do not.
MR. SIMON: Do you know what you think they are?
THE WITNESS: They are typical of notes that I would take of reporters' questions. The typical form in which I would write down the questions, the numbered questions as you have seen elsewhere in my production. This is a typical format of a reporter calling and these are the questions.
"Statement direction, somewhat other directions, Bill Clinton and McDougal. Deal on campaign, did Bill ask McDougal to help retire some debts. '84? Betsey said Bill Clinton, she attended fundraiser at Madison in 4/85, she picked up money didn't know where it came from, Betsey and McDougal said yes."
BY MS. FISHER:
Q Do you recall who gave you the information? Did you speak to Ms. Wright about the

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campaign debt?
A I don't know that that is an answer necessarily to the question or if that is more information from the reporter.
Q Do you have an independent recollection of discussing the 1984 campaign debt and the 1985 fundraiser at Madison with anyone?
A No, but my procedure would have been to talk to Mr. Lindsey only about this.
Q Did you speak to Ms. Wright about it?
A No.
Q Did you ever gain any knowledge relating to the fundraiser, whether it be answers that Mr. Lindsey provided you or other information that you received relating to this question?
A I can't recall. It would have been from Mr. Lindsey. I can't recall the information I received at this point. To answer this question, you mean?
MR. SIMON: Do you recall whether you answered the question or whether Mr. Lindsey answered the question?

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THE WITNESS: No.
BY MS. FISHER:
Q Do you recall any discussions revolving or relating to Ms. Wright picking up money at Madison, didn't know where it came from?
A No.
Q Do you have any understanding what that might refer to? Or what it might mean?
A I'm aware that there was a fundraiser that has been part of the story. But I don't know if that's what that means. I don't recall.
Q Did you have any conversations with Mr. McDougal?
A No.
Q Going on to 459.
A "Number 2, Marlon Jackson, Arkansas banking commissioner, told Bill Clinton about imprudent banking practices in 1985, issued a cease and desist order against bank. Bill Clinton any memory. Associated with McDougal loan shifted."
Q Do you recall anything further than what is described in your notes about this question?

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A No, I do not.
Q Do you recall getting an answer to this question?
A No, I do not.
Q Do you recall any discussions with Mr. Lindsey about Marlon Jackson?
A No, I do not.
Q Going on to 461.
A "McDougal says in '85 Bill Clinton helped get South Main Street building and revenue office located in building owned by Madison, number of favors, fundraiser, Whitewater."
Q Do you have an understanding what this relates to?
A Again, it is the third point or a third question from a reporter who is giving me this information. It would be my practice. I don't know much beyond this.
Q Do you recall getting any information from Mr. Lindsey or any other individual regarding this allegation that McDougal said in 1985 Bill Clinton helped him get South Main Street building located to

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the revenue office building located to a building owned by Madison?
A No.
Q Do you have any recollection of any discussions you may have had relating to President Clinton helping out Mr. McDougal with regard to leases in the 1980s?
A No.
Q Did you have any discussions in late '93 or early '94 relating to the First Lady's representation of Madison?
A With?
Q With anyone at the White House.
A I'm sorry. I'm not sure I understand the question.
Q Do you recall any discussions in the White House in late 1993 or early 1994 regarding the First Lady's representation of Madison Guaranty in the 1980s while she was at the Rose Law Firm?
A I guess beyond what I have testified here about the period in early January, where the issue of special treatment to Madison Guaranty and that

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issue. Beyond that, no.
Q When did you first learn that the First Lady represented Madison with regard to issues other than the issues before the Arkansas Securities Commission?
A I don't know.
Q Recent?
A I do not know. I don't know. I don't know when I learned that.
MR. SIMON: Other than --
BY MS. FISHER:
Q Do you believe you learned it in early 1994 or at a later period of time?
A I cannot place the timing. I bet it would be later.
Q Did you do any research into issues involving the Rose Law Firm?
A No.
Q Did you attend any meetings where issues relating to the Rose Law Firm were discussed?
MR. SIMON: Counsel, that's awfully vague. To the extent he just talked about Mrs. Clinton's

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work while at the Rose Law Firm, that would have been included in the question about -- I think it would have been included in his answer about whether they talked about whether there was any special treatment.
BY MS. FISHER:
Q Is that correct?
A Run that by me again.
Q Do you recall any issues involving any other meetings or any other discussions involving the Rose Law Firm?
A Aside from what I have already testified to?
Q Yes.
A No.
Q Did you at any time gain any knowledge relating to files relating to -- strike that.
Did you have any discussion with regard to files relating to Mrs. Clinton's work for Madison Guaranty while she was at the Rose Law Firm?
A Files?
Q Files.

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A No.
Q Did you ever have any knowledge that there were files relating to Madison Guaranty in Mr. Foster's office when he died?
A Well, I was aware in December when we released the statement that the Whitewater files would be going to the Department of Justice, as my statement says.
Q Other than Whitewater files relating to the land deal Whitewater -- I want to focus specifically on files relating to Madison Guaranty, the bank.
A I don't know that I distinguished it.
Q Did you ever see any billing records related to Mrs. Clinton's work for Madison Guaranty?
A No, I did not.
Q I believe either in your hearing testimony or your summary testimony from 1995 relating to July 20, 1993, you testified that you saw Mr. Burton that evening and you had various discussions with him.
A Uh-huh.
Q At the time, did Mr. Burton mention to you that he had had a conversation with the First Lady

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that night?
MR. SIMON: I would only say that this is about 180 degrees away from anything you indicated would be taken up today.
MS. FISHER: This is just one question.
MR. SIMON: But you understand this witness, until this minute at 10:00 at night after 4-1/2 hours of deposition, has never thought about it. I will let him answer the question because he doesn't want to come back.
THE WITNESS: Let's hear it one more time.
MS. FISHER: If you want to think about it, that's fine. It is a clean-up question.
MR. SIMON: Did Mr. Burton -- on the night of the 20th of July, did Mr. Burton indicate to you he had talked to the First Lady? Is that the question, Counsel?
MS. FISHER: Yes.
THE WITNESS: I don't recall that, I don't believe.
MS. FISHER: I think that I am done. Let me flip through these to make sure there wasn't

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anything else.
BY MS. FISHER:
Q 486.
A "Beverly Bassett letter to HRC preferred stock document now. HRC as person to contact about Madison (brokerage subsidy). Counters only connection with Madison. Three weeks ago Bruce Lindsey said only thing involved was preferred stock. Hosenball."
Q Who is Hosenball?
A Mark Hosenball is a reporter from Newsweek. "Campaigning. McDougal and Nelson."
Q Who is Nelson? Sheffield Nelson?
A I think so. "To go after Clinton and Tucker. Evidence quotes Nelson. McDougal felt abused friendship. McDougal and Nelson transcript describing deals with Clinton. McDougal to Nelson. Just accepted. I could sink it." I don't know what that is.
Q "I could sink it"?
A I don't know what this next is. "I could sink it" and then this "QUI." I don't know what that

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is. "McDougal disappointing" or -- I'm not sure what that notation means. "38-page transcript. Lindsey."
Q Do you recall the context in which you took these notes? Are they separate or part of the same discussion?
A They seem to be the same discussion of, again, a conversation with a reporter. This indicates it is Hosenball, Mark Hosenball, a reporter, and asking these various questions. At the end I note Lindsey, whether I am going to ask Lindsey or tell him that Lindsey is going to call him back. I don't know.
Q Do you remember any further discussion about this issue relating to McDougal and Sheffield Nelson?
A No, I don't.
Q Turning back to 486, do you recall this discussion, specifically at the bottom, "Bruce Lindsey said only thing was preferred stock relating to the connection with Madison"?
A I would read this as what Mark Hosenball is

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telling me Bruce Lindsey said. But, no, I don't recall this.

Q Do you recall around what date these were taken?

A I do not.

Q Do you have a recollection that as of this time you were not aware of Ms. Clinton's other work with regard to Madison, meaning work other than the work she did on the broker-dealer and the preferred stock issue?

A I don't recall when this was. I can't --

Q Again, you don't recall when you learned of that work?

A Correct.

Q Did you attend a November 5th meeting at Mr. Kendall's office? 1993, November 5th, 1993.

A No.

Q Did you have any discussions regarding that meeting?

A I don't know what that meeting is.

Q Did you have any meetings with Mr. Kendall?

A I know Mr. Kendall. I don't believe I have

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ever been to his office.

Q Did he, at any time, come to your office to speak to you?

A I don't recall him coming to my office.

MS. FISHER: Okay.

MR. KRAVITZ: I have one set of questions.

EXAMINATION

BY MR. KRAVITZ:

Q Mr. Gearan, you have answered questions regarding discussions that occurred at meetings in the first week of January 1994 touching on Beverly Bassett Schaffer.

A Yes.

Q During any of those meetings in early January 1994 at the White House, did anyone suggest that any White House official or anyone working at the behest of a White House official should try to get Ms. Schaffer to say anything other than the truth about what had occurred relating to Madison Guaranty Savings & Loan back in the 1980s?

A No.

Q To your knowledge, at any time was there

any discussion in the White House or anywhere involving White House officials about trying to get Ms. Schaffer to make any statement or testify in a way inconsistent with the truth about what had happened with Madison Guaranty Savings & Loan in the mid-1980s?

A No.

Q Are you aware of any discussion involving any White House official about doing anything to try to influence the substance of Beverly Bassett Schaffer's testimony before any special prosecutor?

A No.

MR. KRAVITZ: Thank you.

(Whereupon, at 10:10 p.m., the deposition was concluded.)

MARK D. GEARAN

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey

Notary Public in and for the
District of Columbia

My Commission Expires SEPTEMBER 14, 1996

DEPOSITION OF MARLIN JACKSON
IN RE: S. RES. 120

MONDAY, FEBRUARY 12, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Videotaped oral deposition of MARLIN JACKSON, taken before CHERYL BARTNETT, Certified Court Reporter, LS Certificate No. 396, a Notary Public in and for Pulaski County, Arkansas, at 2:16 p.m., at Bushman Court Reporting, 620 West Third, Suite 101, Little Rock, Arkansas.

APPEARANCES

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ALSO PRESENT: Bill Gregg, Videographer

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MARLIN JACKSON,

the witness hereinbefore named, having been previously cautioned and sworn, or affirmed, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

PRELIMINARY PROCEEDINGS

THE VIDEOGRAPHER: We're going on the record. Today is February 12, 1996. Time is 2:16 p.m. This is a videotaped deposition of Mr. Marlin Jackson on the hearings conducted by the Senate Special Committee on Whitewater.

MR. GIUFFRA: Good afternoon, Mr. Jackson. My name is Robert Giuffra. I'm the Chief Counsel of the Senate Banking Committee, and across the table from me is Lance Cole who is the Democratic Deputy Special Counsel.

We'll be conducting a deposition today pursuant to Senate Resolution 120. This resolution establishes a special committee administered by the banking committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and related matters.

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We are videotaping this deposition today as well as having the court reporter take it down, and our plan at this point will be to show all or part of the videotaped deposition at our public hearings. We understand that you've had a, been in an automobile accident in the recent past and that your health prevents you from traveling to Washington, D.C. Is that correct?

THE WITNESS: It would make it very difficult for me to travel and I would need to go a day or two in advance to rest before the appearance and then stay over a day or two after the appearance. I couldn't keep the kind of schedule that you probably are keeping.

MR. GIUFFRA: Yeah. Well, we'll try --

THE WITNESS: Come in early in the morning and take the red eye home.

MR. GIUFFRA: So our plan will be just to show this videotaped deposition. The procedure we follow is I will ask some questions, then Mr. Cole will ask questions. We'll be somewhat informal today. The deposition will be treated as Committee confidential

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until it is shown at the Committee hearing. It will not be made available to the public.

You have a right to be represented by counsel and I see you are and if counsel will state an appearance for the record.

MR. PRYOR: My name is Mark Pryor. I'm with the law firm of Wright, Lindsey & Jennings in Little Rock.

MR. GIUFFRA: Briefly just to provide a synopsis of the procedure we follow, objections to the form of questions can be noted for the record. Counsel may object on grounds of privilege or scope. And in that event we either may proceed or ask Chairman D'Amato to rule on the objection.

If at any time today you don't understand a question, let Mr. Cole or myself know and we'll rephrase the question. If at any time you need a break, we'll take a break and -- do you have any other que -- do you have any questions before we start?

THE WITNESS: I don't believe so.

MR. GIUFFRA: Okay. If the court reporter

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would, please, swear the witness.
(Whereupon, the witness was sworn.)
EXAMINATION
BY MR. GIUFFRA:
Q. Mr. Jackson, you are former president of the Security Bank of Paragould?
A. That's correct.
Q. What years were you president of the Security Bank of Paragould?
A. Gosh, that's been so long ago. I'll have to stop and think of the time. I joined the bank as a vice-president and chief credit officer, I think, in 1969, August of '69, and I became president and CEO, as I recall, in January of 1970, some 25, 26 years ago. So I, if I'm off a month or two, please, don't fault me, but those are reasonably accurate estimates of when I became affiliated with the bank.
Q. And you left the bank when you became Commissioner of the Arkansas State Bank Department in 1983?
A. I think the common terminology is when I became Bank Commissioner.
Q. For the State of Arkansas?
A. Yes, sir.

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Q. And you were appointed to that position by Governor Bill Clinton?
A. That's correct.
Q. How long have you known Bill Clinton?
A. Oh, I have known of Bill Clinton, I guess, since the -- since he ran against John Paul Hammerschmidt.
Q. That was for Congress?
A. For the Congress back in the '70s. I didn't meet him until he ran for Attorney General sometime in the late '70s. I met him briefly as he cam -- stumped, as he campaigned in northeast Arkansas. My relationship with Governor Clinton was not a, an intense close personal or intense political relationship.
You know, I knew who he -- I knew who he was. I knew he did surprisingly well at running against a man held in very, very high esteem by all Arkansans -- John Paul Hammerschmidt, a very good friend of mine. Had I lived in the district, I probably, I would probably never been appointed by Bill Clinton to anything because I probably would have supported John Paul Hammerschmidt, but that's, that's a hypothetical question.
Q. Did you, did you contribute to Governor Clinton's

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campaigns for governor?
A. There are -- some of his campaigns I made very modest contributions to. Some of his campaigns I didn't.
Q. Did you --
A. And I don't recall which.
Q. Well, did you serve as a volunteer on any of Governor Clinton's --
A. No.
Q. -- campaigns?
A. Maybe beyond, maybe introducing him -- I introduced him one time at church. He spoke at a layman's -- we Methodists every October have a thing called Layman's Day and they invited him while he was Attorney General and he was putting a lot of emphasis on crime and family and, and the church -- and the church and the home being kindly a better solution to that than trying to find enough money in a poor state. Arkansas is a very poor state.

So they invite -- someone at the church, not me -- maybe the minister. Somebody invited him and I was what was called church lay leader and I introduced him at that time.
Q. Have you had any contact with President Clinton since January 1993?

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A. I got a Christmas card.
Q. Anything else?
A. Not that I recall.
Q. Okay. Do you know Hillary Clinton?
A. Well, yes. I know who she is. Again, I have enjoyed a pleasant relationship of a very, very limited scope with Hillary Rodham Clinton. I did not know her until after Governor Clinton was elected Attorney General and she became active in his first campaign for governor. And I, that was the first time I think I ever met her.

And then, then in the years that I served as Bank Commissioner, occasionally I would see her at public events. You know, I might be seated at a table where they seat State officials and sometimes I might be seated by her. But --
Q. While, while you were the State Bank Commissioner, what was the extent of your contact with Governor Clinton?
A. Surprisingly limited.
Q. Would you say once a month perhaps? Did you attend --
A. I don't think it would average once a month. It would be sometimes. If the legislature was in session and the Constitution of Arkansas calls for the legislature to meet for 60 days every 2 years. There are many of us that think that's

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a typographical error. It should be 2 days every 60 years -- notwithstanding the fact that my legal counsel's father is a former governor.

But if the legislature were in session and I was being asked by members of the general assembly to explain pending legislation, if the Governor happened to be in the same room or if he, if I met him going and coming from that, I might see him, oh, two or three times a week. But that's kind of like seeing the moon. I mean, you see it in passing, but as far as sitting down and talking with him or having any kind of discussion with him, I would say five or six times a year would be a fairly high number.

Q. Okay.

A. While the Bank Commissioner is appointed by and serves at the pleasure of the Governor and he can dismiss you summarily, Governor -- that particular Governor, his admonition when he appointed me was to be a very stern watchdog with regards to the banking community and not to worry about the politics and I took him at his word.

Beyond that I -- once or twice while I served, I made an appeal to him to get the examiners out of a vehicle that I called "Dodge pantyhose with wheels." They were Dodge Aries

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and four examiners with portable typewriters and portable calculators and a briefcase full of bank department or bank records and clothes for a week or two would get in those vehicles early, like 6:00 a.m. Monday morning, and maybe drive from here to Fayetteville or from here to the Greenville Bridge to Eudora. And what we were doing was far in excess of the manufacturers' design for the capacity of those cars.

Q. Okay. Let's --

A. So I did see him. I did talk to him two or three times about upgrading the cars to a mid size sedan.

Q. Okay. Now, you left -- stopped being Banking Commissioner in '87, correct?

A. That's correct.

Q. Now, do you know Jim McDougal?

A. I don't -- my intention, my purpose for being here today is not to be here as an advocate for Bill and Hillary Clinton or to be here as an advocate for the majority party or the advocate for the minority party. My purpose for being here is to, to tell you the truth as best I remember it and as I know it.

Now, if I answer that the way I normally would answer someone asking me this question in an Arkansas hearing or

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something, I would say, well, I know Jim McDougal kind of like I know the moon or a star and I know that he's there. I met Jim McDougal, I think, twice while I was Bank Commissioner while he was still involved in the bank at Kingston.
Q. All right. Let's turn to the bank at Kingston. As State Banking Commissioner, you were charged with regulatory oversight responsibility for the Bank of Kingston, correct?
A. I had joint authority with the Federal Deposit Insurance Corporation, yes.
Q. And the Bank of Kingston subsequently was known as the Madison Bank & Trust?
A. That is correct.
Q. And the Madison Bank & Trust was owned and operated --
A. I think the word trust is in there.
Q. And the Madison Bank & Trust was owned and operated by Mr. McDougal?
A. Well, he owned --
Q. Part of it?
A. -- part of it.
Q. Along with Mr. Tucker and Mr. Smith?
A. I do not recall whether Mr. Tucker owned any of it or not. I believe that Steve Smith owned an interest in it and

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then some other people owned an interest in it. I don't think it would be fair to characterize it as being owned by McDougal, Tucker and Smith. Collectively they might have owned -- I do not know. I do not recall Tucker owning any, but he could have. I just don't, I mean, that's -- 1990 -- 1983 and this is 1996 and I have had no occasion to review those records if they still exist.
Q. Okay.
A. But they might have owned 51 percent collectively. No one of them owned control or came under the, the provision of bank regulation or law as being the control -- owning controlling interest in the bank.
Q. Did there come a time in the 1980s when you learned that Governor Clinton was in a business venture known as Whitewater Development Corporation with Jim McDougal?
A. No, sir, they did not.
Q. You never learned of the --
A. Not in 19 -- when did you say?
Q. During the 1980s, at any time during the 1980s.
A. Not at all during the 1980s.
Q. So you were, not -- when was the first time you learned of Governor Clinton's investment in Whitewater Development

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Corporation?
A. I learned that he was involved in an investment with Jim McDougal in the '80s. I had no idea what it was. Candidly, I didn't know where it was. I erroneously thought -- since it began while they all lived in Fayetteville, I erroneously thought it was at Beaver Lake near Rogers and Springdale, near Fayetteville. I later learned by the, from the press that was not true.

I think in the, during the campaign, someone called me and asked me about them being partners in a, a development and whether they told me the name of the development or not, I don't recall. I do know that I was besieged by the press beginning in 1994 and through most of 1995, and during that period of time a reporter proved me wrong as to where the project was in that I thought it was in extreme northwest Arkansas when in fact it's in the north central part of the state.

MR. COLE: Mr. Giuffra, on your question to Mr. Jackson about his knowledge of the Whitewater investment, just so that he's aware of the records that the Committee has, there is a, what I believe to be --

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Mr. Jackson, I'll place in front of you a report of examination of the Arkansas Bank Department from 1993 -- I'm sorry, 1983, dated June 27, 1983. And there is an attachment to that that lists Whitewater Development Corporation. I have no reason to believe that you saw this as opposed to someone on your staff, but I wanted you to be aware of it.

THE WITNESS: You have -- does it show who the Commissioner was on the --

MR. GIUFFRA: Yeah. I don't think you were the commission -- well --

THE WITNESS: On the cover sheet?

MR. COLE: It shows the examiner in charge, a Mr. Steven Purdy. It does not show, that I've seen, the Commissioner.

THE WITNESS: I was, I was not Commissioner when that examination was done.

MR. COLE: In June of 1983?

THE WITNESS: No. I was in June, but the examination was probably done before.

MR. COLE: Previously.

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THE WITNESS: Took -- at that time they used Smith-Corona portable typewriters to type that kind of report with and it took sometimes two or three months to type. And even, even, let me, let me emphasize this. If, in fact, there should be in that examination a page where the examiner in charge, Steve Purdy, and the Commissioner's or Assistant Commissioner signed it -- if, in fact, I signed it, it would not change my answer at all.

I have no, no knowledge. I have no recollection. I have absolutely no memory of the, of Whitewater Development until the press began to call me about it and I think I bet a soda or Coca Cola or hamburger with the guy from Time magazine or someone that it was Beaver Lake over near Rogers and that it was in northeast Arkansas. It turned out we were both wrong. It's in north central Arkansas as you know, since you're from that area.

MR. COLE: Yes, sir.

BY MR. GIUFFRA:

Q. Sir, did there come a time during the 1980s when you

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became aware of a $30,000 loan that Hillary Clinton had obtained from Madison Bank & Trust?

A. I became aware that either Bill or Hillary Clinton -- one or the other or both and I do not recall. It's been more than 13 years, or more than 12 years -- that they had a loan that had originated back in the '70s sometime at or about the $30,000 amount. Through the documents I've been shown by the press and I've, that I've seen on TV suggests that at the time I was dealing with the Bank of Kingston, that the balance on the loan had been reduced to $20,700 or $20,000-plus or $22,000.

Q. Do you, do you have any recollection as to how you became aware of this loan that Mrs. Clinton had outstanding with Madison Bank & Trust?

A. The Bank of Kingston was a $3 million bank. The -- at that time. The bank, Riggs National Bank in Washington, D.C., they have more money that falls through the crack in the floor called the over and short account, miscellaneous loss, than that bank had in total assets. It was in a town of a hundred and sixty-seven people. It had fairly recently undergone a change in management and had become, it -- prior to undergoing the change of management, it was just sitting there.

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It's what's called "coupon bank." All of its money was invested in government bonds and the owners just clipped coupons and did not make loans. As I recall the loan/deposit ratio was 12 or 15, less than 20 percent. They did make a loan, a local loan or two and they found out that loans paid considerably more than government bonds and that it helps the community. And with that, that and for whatever other reasons they may have had, they began to become quite aggressive in making loans.

Q. Did they make some of these loans out of territory?

A. Yes. And that was, that's where I was headed. They engaged in a practice that in and of itself, at that particular time, was not a violation of Federal banking regulations, was not a violation of State law or State banking regulations, but if, if continued on an ongoing basis, those of us who had been in the profession -- at that time I had been in the profession 25 years -- were aware that if you keep making loans out of territory that there is extra risk in it.

Q. Because you don't have as good a sense of the nature of the risk?

A. You don't -- that's right. You can't, it's kind of like the Biblical times. People that fought in foreign lands got

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four times the measures of grain because the likelihood of getting a spear in the gizzard over in the Phillistines was much greater than if you stayed at home and fought in the fort.

There was the same, that analogy maybe is not crude to you people from the capital, but it's very, very applicable to Arkansas lending in that if you don't see your borrower and, and, and/or your collateral every day or every week, you don't know how their business or their profession is getting along. There is added risks. So if you drive to its logical conclusion, a pattern of making out-of-territory loans, the logical conclusion is sooner rather than later you're going to have some problems on your payments.

And one such loan not -- when it was made, it was really not an out-of-territory loan, the Clinton loan. And I don't recall whether it was to Mrs. Clinton or whether they followed the practice that most banks follow and required the spouse to sign. Arkansas is a quasi public, quasi joint property state. Even a husband has a dower interest in property in Arkansas, so most banks require everybody to sign.

I don't recall that. But when they first put the loan together, as I recall and, and as my memory has been refreshed

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by the members of the press or the Special Prosecutor's staff, it was back in the '70s when they all lived over in the Fayetteville area and subsequent to that they moved to Little Rock to be Attorney General and then ultimately Governor and then they were out of office for two years and then they were back in for eight or ten years.
Q. And so this loan was ultimately deemed to be an out-of-territory loan?
A. Yes. At the time I was Bank Commissioner, at the time I was dealing with it, it very definitely met the -- it met my definition --
Q. Of out of territory?
A. -- of out of territory and, and, and we discussed that with the bank. There wasn't, you couldn't go to any law book and you couldn't go to any examiner's manual and find a definition of what is out of territory. So we kind of agreed with the bank that if it had a Madison County, Arkansas zip code or if the collateral were in Kingston or Madison County -- for instance, the, one of the loans that was not on there, one of the largest loans of the bank, a man from Fayetteville had -- in the oil business had built the only, the new, the only thing that was less than 60 or 70 years old

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in that town, a new Pack and Snack and serve yourself service station on the corner.
And even though he lived in Fayetteville, all the collateral was right there where you could see it from the lobby of the bank. And so his loan -- and it was only 20 miles from Fayetteville.
Q. Okay. Now, you're, now, in -- you're aware that in September of '82, the FDIC began to examine Madison Bank; did you know that?
A. Yes.
Q. And that, were you aware that the FDIC submitted a notice of charges to Madison Bank on January 5, 1983?
A. No. I didn't remember it that way at all.
Q. Do you know what, what a notice of charges is?
A. I have a vague -- I have a layman's understanding of notice of charges.
Q. Well, why don't you -- what is a notice of charges as far as you know?
A. It's, it's -- it's giving bank notice that they're going to, to file some type of action under some provision of the FDI act.
Q. Okay. Let me show you a document that's been marked --

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MR. COLE: The FDI act, Federal Deposit Insurance act?
THE WITNESS: Yes, the Federal Deposit Insurance act.
BY MR. GIUFFRA:
Q. That's been marked FCH 367 to 374, and this is the notice of charge as filed against Madison Bank?
A. Can I --
Q. You may peruse it, sir.
MR. COLE: Do you want to go off the record for a moment while Mr. Jackson looks at it?
MR. GIUFFRA: Yeah, why don't we.
THE VIDEOGRAPHER: Off the record at 2:42.
(A discussion off the record was held and proceedings resumed.)
BY MR. GIUFFRA:
Q. So, Mr. Jackson, do you see that on Page 368, which is the second page of this notice of charges?
A. Yes.
Q. It says, quote: The bank has an excessive and disproportionately large volume of loans to borrowers residing or conducting business outside of its defined trade area.

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Do you see that?
A. Yes.
Q. Okay. So that's the issue of --
A. Yes.
Q. -- out-of-territory loans. Now, on the, Page 371 which is three pages later, the notice cites the bank's extension of credit to Whitewater Development Corporation as an example of such an out-of-territory loan. Do you see that?
A. Yes, I do.
Q. And also, I believe, it mentions an extension of credit to Madison Guaranty as well?
A. Yes, it does.
Q. Okay. And then --
A. I am not saying that at some time in 1983 that I did not see or review that. I'm saying that the document that we ultimately served the bank, cease-and-desist order, that was modified and that I actually joined with --
Q. The FDIC.
A. -- the FDIC at their request in issuing the cease-and-desist order.
Q. Well, there came a time, I believe it was in April of '83, that the Madison board consented to the entry of a

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cease-and-desist order; do you recall that?
A. I thought it was September or October, but now that's, again, 13, 14 years ago.
Q. Yeah. It's April 7, 1983. See that? It's a document --
A. Yes.
Q. The document --
A. Well, there, there may be -- there may very well be more than one.
Q. Cease-and-desist order.
A. There may very well be more than one. See this, this preceded my being Bank Commissioner. You see Beverly Lambert's signature?
Q. Yeah, I see that.
A. That was my predecessor.
MR. COLE: Mr. Jackson, could I ask you one clarifying question --
THE WITNESS: Yeah.
MR. COLE: -- on this issue? And perhaps Mr. Giuffra intended to get to this, but you testified previously that the out-of-lending-area loans were not prohibited by either Federal or State regulation if I understood your testimony.

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THE WITNESS: Not in and of themself. They had to be to, as that wording said to such an extent that they constituted an imprudent, or reckless or imprudent lending activities.
MR. COLE: That was my question. So this action was taken under the more general supervisory authority?
THE WITNESS: That's correct. And that's the basis upon which I ultimately joined the, in issuing a cease-and-desist order that required among other things that the loans be removed, a time schedule on which they were to be removed.
MR. COLE: I just wanted to be clear for our record as to the distinction between activity at Madison Guaranty -- I'm sorry -- Madison Bank & Trust that was illegal or prohibited by law on the one hand and on the other hand activity that may have been imprudent or --
THE WITNESS: This came under the general clause of imprudent banking practice.
MR. COLE: Thank you.
THE WITNESS: Not a specific, not a violation

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of a specific regulation. You can't turn to Section Q 824 or U.S. 12 something or another, U.S. 18 something or another, or Arkansas 67405 --

BY MR. GIUFFRA:

Q. Well, once you consent to a cease-and-desist order requiring a bank to take action with regard to out, with regard to out-of-territory loans, the bank is obligated as a matter of law to take that action with regard to the out-of-territory loans, correct?

A. I'm not a lawyer. I would not answer -- I would have to decline respectfully, not to be smart with you, to render a legal opinion. I would tell you that it would be very ill advised from a practical standpoint for a bank under the, subject to supervision of the Federal government and the State government not to abide by a cease-and-desist order that they had consented to.

Q. Now, what effect, if any, did the cease-and-desist order have on Mrs. Clinton's loan with Madison Bank & Trust?

A. The only time that I, that I had an occasion to deal or meet with Mr. McDougal and Mr. Smith, a, one of the Ozark natives, one of the Kingston natives raised that question and said --

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Q. Was this back in the 19 -- in 1983 or '84?

A. 1983, late '83 or, or '84 -- said on this list of out-of-territory loans, Commissar, said I notice that --

Q. Who was the Kingston person?

A. This is some, some local rancher or trapper or hunter.

MR. COLE: Was this person a member of the board of directors of the bank?

THE WITNESS: Yes. He was a member of the board of directors, what we call outside local director.

BY MR. GIUFFRA:

Q. Okay. So an outside director of the Madison Bank & Trust said to you sometime in late '83 that Mrs. Clinton's loan was out --

A. When they consented to the final -- this thing was modified two or three times that you're looking at. When they consented to the final cease-and-desist order, it was signed by me and, I think, A. David Meadows, the original director of the FDIC, the question arose about, from this quaint native -- and he addressed me not as Commissioner, which did not offend me. What he addressed me as one, among the nicer things. He called me Commissar.

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He said: This Hillary Rearham Clinton (sic), Billy Clinton loan on here, are we supposed to make an exception to it? And I'm not a rocket scientist and I don't consider myself anything but a redneck, ragged legged Arkansas banker, but I recognized it was a litmus test to see if the Bank Commissioner was going to play politics.

And my response was not no, but hell, no, we're not going to make an exception to it. They live in Little Rock. Their address and their zip code is outside of Madison County and the hundred and three million dollar bank in a town of a hundred and sixty-seven people can ill afford to be making those kinds of loans to people. If you make an exception for them, then you just open a gate to make an exception to a lot of people. So there is, there are no exceptions.

Q. Let me show you a document which, unfortunately, the Bates number is not very good on the copy I have. It's dated June 14, 1984. It's a memo from William Milam, acting chief review examiner, to Marlin Jackson, Bank Commissioner, and it is a progress report regarding the Madison Bank & Trust. If you could just take a look at this document, sir. Do you recall ever seeing that document?

A. There is no doubt that the William who I know as

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Bill Milam, if he directed this to me, that I, that I reviewed it.

Q. Okay. Now, this, this report lists Mrs. Clinton's loan as a loan that needed to be paid off because it was an out-of-territory loan; is that right?

A. That's correct.

Q. And --

A. This, this report shows it had been paid off.

Q. It was paid off, but it had to have been inconsistent with meeting the requirements?

A. Some earlier report of examination or cease-and-desist order probably had it listed as when it came due it had to be paid off.

Q. And --

A. In this instance, it really doesn't -- it's not speaking prospectively. It's speaking postspectively that it was -- it says, paid off.

Q. Now, did you ever --

A. There is a zero balance.

Q. Yeah. Did you ever speak with Mr. McDougal about the problems of the bank, Madison Bank?

A. I had a -- yes. I think I mentioned --

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Q. Yeah.
A. -- that I had a board meeting and --
Q. What else, what else happened at that meeting that you can recall?
A. Well, we went over the report of the examination and we went over the, the copy of the cease-and-desist order with an addendum to it that the bank department, under my direction, had recommended to the regional director. We went over it and we asked the, at the board, we told, gave the board -- gave it to the board and asked them to either consent to it within, I think they had a statutory time limit of ten days or to notify us they did not intend to. They summarily at that meeting, after asking just two or three questions, one of which I've already shared with you -- was Mrs. Clinton or the Clintons to be made an exception and my answer was no.

They signed the consent to the cease-and-desist order. Maybe, following the meeting, I might have had a five-minute post-meeting discussion with Jim McDougal relative to the difference in which banks operated and my expectation as Bank Commissioner and the, the FDIC officials there and their expectation as to how banks should be operated versus what had been announced by the chairman of the FSLIC as a very loose

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expectation. I believe a man named Pratt was the chairman at that time and he made speeches all over the United States telling -- in fact, he cited, and I don't say this in any defense of McDougal or anybody, but he cited Mc, the -- McDougal and his innovative practices with regards to the island and with regards to the development in a slough between here and Pine Bluff, Maple --
Q. Maple Creek.
A. Maple Creek.
Q. And the first one you mentioned was Campobello?
A. Yes.
Q. That's up in Canada --
A. Yes.
Q. -- where Mr. McDougal had a real estate development?
A. Well, he -- Mr. Pratt was chairman of the FSLIC and was, as such was the head regulator of the all the savings and loans and he basically in one of the speeches I heard him give in Dallas, Texas and one in Washington said that if you're going to be a savings and loan and be in existence three years from now, then you're going to need to do all these things and at the one in -- I believe it was in Dallas, but I'll say it's in Denver -- it's been more than 13 years. It was before I

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became Bank Commissioner. You're going to have, need to do like the folks have done at, and what was, I think it was McCrory or Woodruff County Savings & Loan.

MR. COLE: Assess --

THE WITNESS: You're going to have to do innovative new things and we're going to be your partner and we're going to give you a lot of new authority and I'll give you new latitude and my brief discussion with Mr. McDougal was: Commercial banks are going to be expected to adhere to the fundamental tenets of safety and soundness and profitability and as your Commissioner I will not harbor any deviation from that.

And that, and one 30, maybe one 45-second or, 1-minute telephone conversation in which Mr. McDougal called me was only discussions I ever had with Mr. McDougal.

MR. GIUFFRA: Do you want to do his follow, you want -- can we go off the record for a second?

MR. COLE: Yeah.

THE VIDEOGRAPHER: Off the record at 2:57.

(A discussion off the record was held and

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proceedings resumed.)

EXAMINATION

BY MR. COLE:

Q. Mr. Jackson, before Mr. Giuffra moves into his next area of questioning I wanted to ask you, briefly, sir, just a couple of clarifying questions about the loan that we've been discussing that Madison Bank & Trust, formerly Bank of Kingston, had made to Mrs. Clinton. Would that loan standing alone by itself have violated any law or regulation?

A. Absolutely not.

Q. And would there have been any reason that Mrs. Clinton or anyone else aware of that loan would have had reason to think that that loan presented a problem from a bank-regulatory perspective?

A. Only someone with a long history in banking or bank supervision would have known about it, and had it been only one of three or four loans in the bank, it wouldn't have -- wouldn't have been anything said about the loan.

Q. That was --

A. Now, if it happened that it was one of a dozen or a dozen and a half and when you've got that many, then it calls attention to all of them.

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Q. That was going to be my next question. It wasn't the fact of this loan or the circumstances of this particular loan that created the problem, if I'm understanding your testimony correctly. It was the fact that a number of other similar out-of-territory loans had been made by Mr. McDougal and in the aggregate, in your view and the view of the Federal regulators, that created a potential problem.
A. That's correct. And, in fact, at a meeting with the board, while we had listed them in a category called sub standard simply because they were out of territory, we made clear that we really didn't, we weren't saying that there are losses inherent in any of these loans. And the best I recover -- the best I recall, if not all, substantially all of the out-of-territory loans were paid in full.
They did have some losses at the bank, but they were mostly to the farmers and ranchers who had fell upon hard times because of the 23-percent interest you had to pay for money if you could get it.
Q. So for those who are following this and don't have your experience in bank regulation, there was nothing wrong with this particular loan?
A. Oh, no. As a matter of fact, had a Little Rock bank or

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had a Memphis bank or for that matter a Chicago or a New York bank with millions of dollars of capital or billions of dollars of capitol had made this loan, it would never have been considered inappropriate or subject to discussion even, much less classification.
Q. And do you recall --
A. See, you got to, you have to keep in mind the size of the institution, the size of the town that it's in and the relative, that size relative to the size of the loan. If the bank had have been First National Bank or if the bank had been McElroy Bank & Trust Company of Fayetteville, the loan would never have been mentioned.
Q. But even though this was only a $30,000 loan, in that bank that was a loan that was large enough to --
A. Yes. And again, I don't mean to banter with you at all or be impolite. My memory was at the time the loan was paid. Now, that sheet should show -- what was the balance shown on that sheet when it was paid? At the time I was dealing with it --
MR. GIUFFRA: $26,792?
THE WITNESS: Okay. It was more. I thought it was twenty-two. It had started out at that and they

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had paid it down some. It's a common practice that you pay 10 percent of the principal and the interest and they renew it for a year.

BY MR. COLE:

Q. And just to close this out, do you recall of the other out-of-territory loans that Mr. McDougal had made that and you the Federal regulators commented on, do you -- and by other I mean other than the loan to Hillary Clinton that we have been discussing. Do you recall whether any of those loans were to the Clintons or to Whitewater Development Company or anyone affiliated with them --

A. No.

Q. -- to your knowledge?

A. To my knowledge, to my memory they did not. Now, in the cease-and-desist order, it makes record to it of, of a loan to them.

Q. Yes.

A. I have no, I have no knowledge and I'm not sure but what that cease-and-desist order isn't, isn't including the loan to Mrs. Clinton as a loan to --

Q. To Whitewater?

A. -- Whitewater.

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Q. To Whitewater Development Corporation?

A. Because as I understand it from the press, not from any memory, but as I understand it from the press, the proceeds of the loan went to Whitewater, went to their resort development thing.

Q. Thank you.

FURTHER EXAMINATION

BY MR. GIUFFRA:

Q. Mr. Jackson, did there come a time in 199 -- 1983 when you informed then Governor Clinton of the problems at Madison Bank & Trust?

A. Sometime after the cease-and-desist order that I signed with the regional director.

Q. And you think that was approximately when?

A. I think it was the -- late August or September or October --

Q. Okay.

A. -- of '83. Three days or a week -- I don't recall which, it could have been ten days -- after I signed that, surely through coincidence, late in the afternoon, I'm talking about like 6:00 o'clock, the Governor exited the Capitol Building at the same time I did. I have been asked by Matt Murphy from

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Hamburg, Arkansas, who looked like, more like Colonel Sanders than Colonel Sanders did -- he played the fiddle -- and he was head of the agricultural committee. I had been asked to come over and appear before his committee.

He introduced me first as one of Arkansas' renegade sheriffs, Marlin Hawkins, and he said, no, no, that's not right. It's Marlin Perkins. And the committee all got a laugh out of it, and that's the only reason it's a memorable occasion. And I really did not know Bill Clinton very well and as we left the building late that afternoon, through pure coincidence -- the committee adjourned as he decided to leave and my office at that time, or the Commissioner's office, was west of the capitol in the annex, what's called the Big Mac building and we happened to be using the same door. He parked a Lincoln Town Car right in front of it, and I parked a Dodge Aries a mile away by the revenue office.

And I, I cannot, I cannot under oath swear to you that this is exactly what I told Bill Clinton, but it is 99 percent accurate. I said, in my capacity as Bank Commissioner, it was my responsibility to have a meeting with the Bank of Kingston board of directors, including your former staffer, Jim McDougal, and it was my responsibility as Bank

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Commissioner to join with the Federal government in structuring a document so as to cause them to stop making imprudent loans to out-of-territory people.

Q. How did you know that Mr. McDougal was a former staffer?

A. Well, it was in the paper, on television and the cartoonists, the political cartoonists had a field day talking about McDougal and Smith and Moore because they wore Adidas or Converse or somebody's tennis shoes and blue jeans and wore beards.

THE WITNESS: No offense, sir. No, offense. At that time beards on public officials in Arkansas, just, you just didn't see them, particularly in the governor's staff and he was the youngest governor in the state. So all you had to do was pick up the paper and you would see his, McDougal's name or picture with the Clinton people.

MR. COLE: And to slow down just a minute, Mr. Jackson, the time period that you're talking about was Governor Clinton's first term --

THE WITNESS: That is correct.

MR. COLE: -- 1979 to 1980?

THE WITNESS: That is correct.

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MR. COLE: And the Smith you're referring to --
THE WITNESS: That is correct. He ran in '78 and served in '79 and '80 and in '80 he was defeated. And it was that two-year period of time that Mr. McDougal served in some capacity on Governor Clinton's staff.
MR. COLE: And the Smith you referred to is one of the other aides whose name was in the paper was Mr. Steve Smith that you testified earlier --
THE WITNESS: I know that's correct.
MR. COLE: -- had some ownership in the Bank of Kingston?
THE WITNESS: That was my understanding.
MR. GIUFFRA: Okay. So --
MR. COLE: So just, just to finish, though, Mr. Giuffra.
So you understood at that time that two of the stockholders, including Mr. McDougal who was managing the institution of this bank, were former staffers of Governor Clinton and well known --
THE WITNESS: Yes. And I just simply told him that I had had the responsibility to deal with this

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issue and that they either had or that they might appeal to him and that he just needed to know that I had done what I needed to do. And very candidly, it was, it was my, an instant of my giving him a litmus test. And he put the big left paw up around me. I was, I was quite a bit, I was quite a bit larger then than I am now and -- that wreck took a lot out of me. And he couldn't reach around me. If he could, he probably would have.
And he looked me in the eye and he said, you do whatever you need to do to be a good -- and then he stopped and he said, no, to be a great Bank Commissioner and don't worry about the political consequences. It doesn't matter who is involved. I'll take the political heat. You just do whatever you need to do to be a great Bank Commissioner.
BY MR. GIUFFRA:
Q. Now, did you mention Mrs. Clinton's loan to the Governor?
A. No.
Q. You never mentioned it to him on any occasion?
MR. COLE: What did you mean --
THE WITNESS: Well, not that I recall.

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MR. COLE: What did you mean, Mr. Jackson, when you just said that for you that was you giving him a litmus test?

THE WITNESS: I really didn't know. Years ago, many years ago in the first days of banking -- and I never experienced it -- but senior bankers that I knew told me of instances when there was a lot of political skullduggery, political favoritism that if you wish to have something done by the Bank Commissioner, you didn't go see the Bank Commissioner, you went to see the Governor.

And I just wanted, I wanted to find out because I really wasn't, I wasn't all that happy. My family still lived up in northeast Arkansas and I had taken the vows of celibacy and the vows of solitude and the vows of poverty, all when I took the Commissioner's oath, living in an apartment here in Little Rock. And I wanted to know if, in my own mind, whether or not there was going to be an effort made -- and if there ever was going to be, I thought this would be it -- where the Governor would seek to interfere with the execution of my responsibilities.

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BY MR. GIUFFRA:

Q. Okay. No discussion --

A. He did not.

Q. Okay. There was no discussion of Mrs. Clinton's loan at this time?

A. I do not recall any discussion --

Q. Okay.

A. -- of Mrs. Clinton's loan.

Q. And was it your ordinary practice to personally inform the Governor when a State bank was in trouble?

A. Not, not in, not, not in -- not in routine things. If there was serious trouble and a candidate for closing, yes. After all, he's the chief executive of the State and he was a person who appointed me.

Q. So this was somewhat unusual for to you advise him of a cease-and-desist order among --

A. I don't think I even told him the cease-and-desist order. I said I just did what the, what the bank --

Q. The primary motivation for you advising him was the fact that two of his former staffers owned the bank?

A. And, and to see what his reaction was and to prepare him for it if, in fact, they did come to him with a request. And

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the way I stated it, that I want you to know and you need to know that I simply did nothing more and nothing less than what a Bank Commissioner has to do, that there wasn't, there wasn't any, wasn't any ground for re-thinking or cutting any slack.

MR. COLE: Was the cease-and-desist order, would that be a matter of public record?

THE WITNESS: No. A highly confidential record.

BY MR. GIUFFRA:

Q. Okay. I would like to show you a document, sir, which is a September 30, 1983 loan application submitted by Bill Clinton for a loan in the amount of $20,800, and the purpose of this loan is listed as business expenses. It's an unsecured loan. The interest rate is 13 and a half percent. What do you know about this particular loan?

A. According to this application, it's a loan that -- and according to the press, it's a loan that the Governor and Mrs. Clinton obtained from the Security Bank of Paragould.

Q. Now, that was the bank that you had formerly been president of, right?

A. That's a bank I had formerly been the president of, yes.

Q. And did you also own a majority interest in the bank?

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A. Yes, I did. Prior to being Bank Commissioner, and I did not at this time.

Q. And you put that interest, your majority interest in a blind trust; is that right?

A. That is correct.

Q. But you still were the majority owner of the bank as of September 30, 1983, correct?

A. No, not legally.

Q. Not legally because it was in a blind trust?

A. That's correct.

Q. Now, did you have any involvement with the underwriting of this particular loan to Governor Clinton?

A. Not that I recall.

Q. Did you talk to anyone at Security Bank about the loan prior to his approval?

A. No.

Q. About the Clintons' loan?

A. No.

Q. Did you suggest to Governor Clinton that he go to your former bank to obtain this loan?

A. Not that I recall. Having said that, I have seen press reports that, that say that I did. If Bill Clinton says,

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Marlin Jackson suggested that I go see my long-time friend who took my place at the bank, Dr. Frank Olin, or my long time friend, Bill Fisher, and get that loan, if someone -- if any of them say that I did, I would not dispute it. I just have no memory of doing it.
Q. And you have no recollection of ever speaking to Hillary Clinton about this loan before it was made?
A. Before it was made, no.
Q. Okay.
A. Now -- now, let's distinguish before it was made --
Q. Absolutely.
A. -- while it was being made versus after it was made.
Q. Absolutely.
A. Okay.
Q. Now I want to show you a letter which bears Bates number DKSN 1244. There is a letter from Marlin Jackson, Bank Commissioner, to Charles D. Campbell, Vice-President, Security Bank, dated November 1, 1985 and it says:
Dear Charles, I am enclosing the extension agreement which Governor Bill Clinton signed yesterday. It is my understanding that Jim McDougal, a close friend as well as business associate Governor Clinton, is to forward you a check

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for $2,322.42 representing interest due on the note. In discussing this matter with Jim today, vis-a-vis telephone, he indicated that he intended to make a 4 or $5,000 principal reduction in addition to the interest payment. After making the appropriate approval of the extension agreement, please, return the appropriate copy to me and I will personally deliver it to Governor Clinton. Also please return copies of the receipt to me. So that Jim McDougal may know that the proper credit has been given, please provide Jim with a copy of the receipt for the payment of the interest and principal along with the copy of the extension agreement. I trust this meets with your approval and that it will soon remove the note from the past-due list.
Now, this is November 1, 1985 and it's written on Arkansas State Bank Department stationery and it's signed Marlin D. Jackson, Bank Commissioner. And you're aware of this letter?
A. I've been told about the letter.
Q. Have you ever seen the letter before?
A. No, I haven't. Well, I'm sure I did when I, I'm sure I did in 1985.
Q. Okay. In 1985 were you aware that this loan to

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Governor Clinton which was, looked like the principal amount was a little bit over -- it looks like $18,800 and the accrued interest was $2,322.42. Were you aware that that loan was on the past-due list at the Security Bank of Paragould?
A. I don't -- I'm aware that letter says that. It's my understanding that the Clintons had paid the interest and had paid the principal payment. There was no law, State or Federal, that required an extension agreement. The former president of that bank who had been commanded by God to do punishment, penance by serving as Bank Commissioner, had established a practice of requiring written extension agreements.
And one Sunday, while in church, Mr. Campbell handed me an extension agreement and said, oh, I sent one of these to your boss, Bill Clinton, some days ago and I haven't heard from him. Would you get him to sign this -- or him and her to sign this and return it. And I said, well, this is church and I don't do bank business in church. And then I said, Bill Clinton knows next to nothing about business and absolutely zero about banking and he probably, is probably lying on his desk in the middle of all that debris. If you'll, if you would like, I'll be glad to give it to

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Mrs. Clinton and she will obtain his signature and then I'll return it to you.
I did it. I had known Charles Campbell since he and I were in the 6th or 7th grade.
Q. But were you aware at this time that the bank, that the loan was past due?
A. I'm aware -- it depends on how you interpret what's past due.
MR. COLE: Perhaps you need to explain again what past due means in this context. The loan was not in default, I take it.
THE WITNESS: The loan was not in default, but the documentation required by that bank's policies, not by Federal law or Federal regulation, not by State law or State regulation, but simply by that bank's policy was that you didn't extend it until you got a written extension agreement.
Now, the prudence of my having established that policy has since come in to reality in that both State and Federal regulators now require as a matter of regulation and/or law that you get written extension agreements. So the loan was not in

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default. Was it considered past due? Well, apparently I did. I considered it past due when I drafted that, dictated that letter.

My practice at that time was to arrive at the bank department between 2:30 and 3:00 a.m., do all of my dictation between then and 7:00, 7:15 so that when the first examiners began to arrive, I would be available for them to, to comply with.

Obviously, had I known that Bill Clinton was going to be President and I was going to be sitting here answering your-all's questions, I would have used my personal stationery, which was on the desk of the typist that did this, rather than bank department stationery.

BY MR. GIUFFRA:

Q. So do you think it was -- now, this, this letter was written on banking department official stationery; is that correct?

A. That is correct.

Q. And was this action, this request for the extension taken in your official capacity as Bank Commissioner?

A. It was done by me as an accommodation to the bank.

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Q. And you weren't, were you acting as the Governor's personal banker at this point?

A. No, no, I wasn't. I was acting, I was acting as an act of friendship and accommodation to a young man that I had known since we were in junior high school.

Q. That's Mr. Campbell?

A. That's correct.

Q. Who had asked you to see --

A. Who had asked me if -- excuse me for interrupting.

Q. He had asked you to see if you could get the Governor --

A. Yeah.

Q. -- to sign the extension agreement?

A. That's correct. And handed me one, the extension about, oh, about --

Q. Did he indicate --

A. -- about two-thirds the size of a post card was what we're talking about, a slip of paper about two-thirds the size of a post card. And he handed it to me in church.

Q. Did he indicate that he was having problems getting the extension agreement signed?

A. He said that he had sent one to the Governor a few days before and it had not been returned.

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Q. Was the extension agreement that he provided you, was it was Governor Clinton's name written in as well as the name of the note, the number of the note?
A. I'm sure that it was, yes.
Q. So it was all -- let me give you a copy of it. DKSN 10522. Does that appear to be the extension agreement?
A. Yes.
Q. So the extension agreement that he provided to you in church was, contained the note number which is 60 -- 66041 and then 957-585 and had the origination date, listed the dealer and had the interest rate and the amount at the time of the extension. So it's your testimony that Mr. Campbell was carrying this extension agreement in his pocket and was planning on giving it to you in church?
A. Yes.

MR. COLE: Was that at Paragould, Arkansas?

THE WITNESS: That is correct.

MR. COLE: Mr. Giuffra is not from Arkansas. Maybe you could explain to him the difference.

THE WITNESS: Well, it's a hundred forty or fifty miles north, northeast of here, or seventy-five to a hundred miles northwest of

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Memphis, Tennessee.

MR. COLE: And did Mr. Campbell know that you came home on occasion for church?

THE WITNESS: Oh, yeah. We maintained a home in Paragould and, in fact, we still have a home in Jonesboro, Arkansas, which is 15 miles from Paragould. And he and I had been attending this same church for 10 or 15 -- well, 10 or 12 years.

MR. COLE: So he knew that he would see you in church?

THE WITNESS: But to hold this up to the camera and say that he handed this to me in church is quite different if you fold this down to the size the extension agreement was. I'm not doing a very good job of folding it.

BY MR. GIUFFRA:
Q. But it was a card-sized document, I understand.
A. This, this he had in his coat pocket and he walked up beside of me and handed it to me and we had the exchange.
Q. So he said, please, take care of this. Now, did you go talk to Bill Clinton about this?
A. No, sir.

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Q. Did you ask, did you -- how did you get the Governor to sign the --
A. As I recall, I sent, sent it. Now, I don't -- I recall sending it. I don't know what day or how, whether by courier or whether by runner -- courier being someone that uses a car and a runner is someone that goes back and forth between buildings in the downtown area -- whether I sent it to her or how you I sent it to her, but I sent it to Mrs. Clinton.
Q. You sent it to Mrs. Clinton at the Mansion or at the Rose Law Firm?
A. At the, at the law firm.
Q. You sent it to Mrs. Clinton at the law firm.
A. Yes.
Q. Did you send it with a note?
A. Yes.
Q. And the note said, please have the Governor --
A. Please obtain Bill's, Governor Clinton's -- and I may have said Bill's.
Q. Did Mrs. Clinton call you about the extension agreement?
A. No.
Q. Did you ever speak to the Governor about the extension agreement?

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A. Not that I recall.
Q. Now, was it proper for you to send the extension agreement back to Mr. Campbell on official Arkansas State Bank Department stationery?
A. Oh, given, given the fact that instead of working 40 hours a week, I was working 75 to 90 hours a week and given the fact that I wore out three sets of engines on a little twin engine Piper airplane at the reimbursement of 11 cents per mile and that when I left the Bank Department I left 68 days of annual leave that I could have billed the Department for, I think the Department got a big bargain in me. There were no tax dollars involved in --
Q. No. But my question is, and it's a very simple question: Was it proper for you to use official State stationery to ask a bank that you were regulating -- and you would agree you were regulating Security Bank of Paragould?
A. Yes. Well, wait a minute.
Q. -- to grant an extension to the Governor?
A. Let me -- wait a minute, wait a minute. When I became Bank Commissioner, to the extent that Arkansas law permits, I relegated the supervision of the Security Bank of Paragould, because of my past interest in the bank and my knowledge that

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the Wright, Lindsey, Jennings law firm had drafted a blind trust in the stock that my family and I had owned that had gone into that stock, in that trust, I relegated super, my primary supervisory responsibilities to the Federal Deposit Insurance Corporation.
Q. But you still had, you still --
A. Within the department, I relegated it to the Assistant Commissioner.
Q. But you still had the ultimate authority?
A. You are correct. Under Arkansas statutory law, there were certain responsibilities that I couldn't relegate to anyone. They were inescapable.
Q. And isn't it true that this letter in the last paragraph was asking you to grant the extension and remove the loan from the past-due list? You're asking him to take action -- Mr. Campbell, correct?
A. Well, assuming it meets his approval.
Q. But you're asking him to take an action with regard to the extension?
A. I believe, I believe -- I believe if you read this in its entirety, it clearly says: I trust this meets with your approval.

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MR. COLE: Mr. Jackson --
BY MR. GIUFFRA:
Q. But you were asking --
THE WITNESS: In answer -- my answer to your question is --
BY MR. GIUFFRA:
Q. But you were asking --
A. As primary, as -- as Bank Commissioner writing to a bank, sending the bank a document that belonged to that bank, there was not anything inappropriate with that. Now, had I known that we were going to be having this meeting today, I would not have used Bank Department stationery.
Q. So you would, you would agree it was a mistake to use the Bank Department stationery?
MR. COLE: Let me --
BY MR. GIUFFRA:
Q. Just --
MR. COLE: Before, before --
THE WITNESS: I don't know that I would say that it was a mistake. I'm just saying there were other choices that would have been better.
BY MR. GIUFFRA:

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Q. But it wasn't --
A. It was not, it was not wrong. It was not illegal. It was not unethical. It was not immoral.
Q. It was not improper?
A. It was not sinful. It wasn't improper. If I had not been regulating, if that had been a national bank or if that had been a savings and loan over which I had no jurisdiction whatsoever, then I would question the propriety.
Q. Can you, can you -- can you think of another instance while you were Bank Commissioner in which you ever sent documentation regarding a State official's loan to a bank and asked them to take certain actions with regard to that? On the official stationery of the --
A. Many times, many times.
Q. So you would --
A. I, I've traveled -- I traveled all the way across the state one time on behalf of a bank as their Commissioner to induce a group of people to accommodate the bank.
Q. So you would, you would -- you would as a regular matter send letters asking banks to take action with regard to loans --
A. No.

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Q. -- on behalf of individuals --
A. No.
Q. -- on official stationery?
A. No.
Q. You wouldn't do that?
A. No.
Q. Can you think of another instance where you ever sent a document similar or asked a bank to take an action similar to the granting of an extension agreement for a single borrower and that you did so on the official stationery of the State Bank Department?
A. I think there were a few other instances where I may have done so.
Q. Do you recall the name of the borrowers?
A. Not with any specificity.
Q. Were they state officials?
A. No, no. No.
Q. So Governor Clinton would be the only State official for whom you ever asked a bank that you were in charge of regulating to grant an extension of a loan and did so on the State Bank Department stationery?
A. I think I misspoke when I said, no, there were not State

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officials. I think in some -- and I said there were three or four total instances. I think some of those people may have held some, held state offices also.
Q. And would those letters have also been sent to the Security Bank of Paragould?
A. No, no. That's the only one, only -- to my knowledge, that's the only, only loan to -- the only loan that I have any knowledge of in regards to the Clintons is that one at Paragould.
Q. Now, do banks --
MR. COLE: Mr. Giuffra, before you go on to the next, I think it's -- under the agreement we have for time, I should be permitted a few questions on this subject if we're focusing on the use of this letterhead.
FURTHER EXAMINATION
BY MR. COLE:
Q. Mr. Jackson, I'm putting the letter back in front of you. Did you type this letter?
A. No.
Q. Do the typist's initials down at the bottom mean anything to you?

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A. Yes.
Q. Can you tell from that who typed it?
A. A lady named Betty. Betty.
MR. GIUFFRA: But you signed the letter, sir, correct?
THE WITNESS: No, sir, I didn't.
MR. COLE: If I could continue, Mr. Giuffra, then you can take --
THE WITNESS: But that's not unusual. It was signed with my approval, my authority.
MR. GIUFFRA: Well, let me ask you --
THE WITNESS: I have no doubt -- I told you I would go in at 2:00, 3:00 o'clock and I would dictate fifty, sixty or a hundred of these. She would type them, and unless they were very, very serious critical area of matters of, of high-level regulatory concerns, she, she signed them and, and mailed them. And I might review a copy a week or a month later or I might not ever.
BY MR. COLE:
Q. So your testimony, Mr. Jackson, is that you dictated this letter perhaps with a number of other letters and someone else

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transcribed or typed the letter?
A. That's correct.
Q. Did you direct -- a great deal has been made of the fact that this is on Bank Department stationery. Did you direct that it be placed on Bank Department --
A. I made no, no distinction as to what stationery be used. And, and there was a supply of personal stationery, a supply of Bank Department stationery -- and this lady was also working far in excess of what she was getting paid for in doing these letters.

We had gotten beyond the Smith-Corona portables into, actually, a PC word processor. We -- it feeds the paper through and my guess is that she never gave any thought to it. It was going to a bank from the Bank Commissioner and had a bank document in it.

Had it been going to a business or had a personal check in it or something, there was no question that she would have used my personal stationery and she would not have done it, would not have done it during business hours. She would have done it after business hours or on the weekend and then bill me personally for her time.
Q. And Mr. Campbell, the gentleman to whom this letter was

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addressed, is someone who was well known to you at the time and knew you well?
A. I had known him, when this was done, 20 or 25 years.
Q. So the fact that this letter was on Arkansas State Bank Department would not have told Mr. Campbell anything that he didn't already know about your position?
A. Anyone who knows Mr. Campbell would know that if, if that had not met his approval, it would have been trashed or torn up and mixed with bovine feces and put in an envelope and mailed back to me. Mr. Campbell is a very, very self-reliant, hardheaded young man, firm in his convictions.
Q. And notwithstanding the language in the letter that Mr. Giuffra brought to your attention about this loan being past due and removed from the past-due list in the last paragraph, the extension agreement essentially was a rollover of the existing?
A. That is correct.
Q. Is that correct?
A. That is correct.
Q. So what you were doing was forwarding a document that just rolled over a loan for another period?
A. A document I received in church as an accommodation for a

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long-time friend. And if he had been a John Deere dealer, I would have probably done the same thing. But since it was a bank, I certainly did not -- I didn't give a second thought to it.

Q. Before Mr. Giuffra goes on to his next line of questioning, I, I do have one question about the original making of the loan that's referenced in that letter, the loan by Security Bank of Paragould. And Mr. Giuffra showed you the application. The loan was made to Governor, then Governor Clinton in Little Rock; is that correct?

A. That's correct.

Q. And it was an unsecured loan, so it was not secured by property in the Paragould area?

A. That's correct.

Q. Did this, the granting of this loan by Security Bank of Paragould raise any issue of being an out-of-territory loan?

A. No, it didn't.

Q. And why was that?

A. Oh, the Security Bank was a $75 million bank with $10 million in capital. It was inconsequential.

Q. So even though, as a matter of fact, this loan was as much out of territory for Security Bank as the prior loan had

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been to Bank of Kingston, the difference in the size of the institutions and the loan or underwriting standards are what made it --

A. That is correct.

Q. -- appropriate in this case while it arguably was inappropriate in a prior case?

A. That is correct. You know, Chase Bank makes loan in Hong Kong. They're not considered out of territory. If this bank had made a loan in Hong Kong, it would have been considered out of territory.

You know, there is one interesting aspect of this that, that I have never, I have never heard anyone except the press raise a question on. If you look at this application and if you go back and look at the documents that the press has -- I don't know whether you-all have it or not. I'm sure you do. Well, I'm not sure that you do. It seems to me that the press has got more documents and knows more about this and writes more about this than everybody else put together. But the Clintons were paying 21 or 22 or 23 percent.

Q. That was the interest rate on this loan?

A. On this loan, when they got this loan from the Security Bank. Arkansas interest rate floats at 5 percent above the

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St. Louis discount rate, so the maximum the bank could charge them was 13 and a half percent. Then when they got around two years later to extending it, interest rates had dropped down so that -- and in the interim it had apparently dropped because it was 11.5 percent and it had dropped down to 10.5 percent.

So as the Federal discount rate, which happened in the last 30 days, dropped a quarter percent, our maximum legal rate dropped from 10.25 percent to 10 percent. And so there are a lot of economic reasons why the Clintons would have gone somewhere other than staying or attempting to stay with the Bank of Kingston. Almost a 50-percent savings in their interest because, by moving the loan.

Q. And is that because the Bank of Kingston was a Federal institution?

A. No. It was because the, the courts and the law, the Constitution says that the interest rate is the St. Louis Federal Reserve rate plus any surcharges plus 5 percent at the time of the contract. Well, when the Clintons borrowed the money over at Kingston, they made the rate, the maximum rate they could pay either 21 percent or ultimately 23 percent. I don't know that they ever paid 23 percent, but I do know

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someone from the press showed me a deal where they were paying, had paid the bank of Kingston 21 percent.

Q. So they were paying at or near the maximum amount permitted --

A. Yes.

Q. -- by law?

A. Yes.

Q. Not a sweetheart deal exactly.

A. That's, That's correct. And my feeling, my thought is that that was, that was definitely true at Security Bank and I suspect that, that when the loan was made at Kingston that the rates had not ratcheted up the additional 3-percent surcharge.

FURTHER EXAMINATION

BY MR. GIUFFRA:

Q. You don't know whether the Clintons were making the interest payments or whether Mr. McDougal was making the interest payments, do you?

A. Only through hearsay.

Q. Well, do you know for a fact whether the Governor made the interest payments?

A. I have been told by reliable sources that Mr. and Mrs. Clinton made interest payments on several

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occasions.
Q. But did Mr. McDougal also make interest payments?
A. Mr. McDougal, and I told you awhile ago and I asked your, answered your question about, you said how much discussion or, did I have with Mr. McDougal and I said, you know, five minutes after the board meeting and one telephone call. The one telephone call is referenced in that letter to Mr. Campbell when Mr. McDougal called me and said I'm going to be making a very substantial reduction in the Whitewater loan or in the resort development loan that we have, that the Clintons have or that our deal has at Security Bank.
And I said, fine, send the, the proceeds directly to the bank. And told him to send them to the attention of Charles Campbell who was, at that time, the senior credit officer.
Q. In fact, on November 8th, 1985, Mr. McDougal sent a letter to Mr. Campbell in which he enclosed a check for $7,322.42 --
A. I thought it was more than 4,000.
Q. No. $7,322.42 from principal of 5,000 and interest of $3,322.42? So Mr. McDougal did make a substantial payment of --
A. That does, I do not contradict that. I just --

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Q. And, in fact, sir, we have a check written on the account of Whitewater Development Corporation to the Security Bank of Paragould in the amount of 7,300 --
A. I saw that on TV.
Q. Yeah. There it is.
A. I saw that one on, on -- Lisa Meyers held this one up so that all America could see it.
Q. So Mr. McDougal -- so when you talk about what the interest rate was on this loan, Mr. McDougal was paying the money, was paying that interest for the Clintons.
A. Well, I wouldn't, I would not say that from the documents I see. I would say that Whitewater Development Corporation, which got the benefit of the loan originally, was paying the principal and interest, which is what it should have been doing.
Q. And this, and this loan was paid from an account at Madison Guaranty Savings & Loan which Mr. McDougal ran, correct?
A. Yes.
Q. And you don't know whether that account was, for example, overdrawn at the time?
A. I have no -- I was never in Madison Guaranty Savings &

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Loan.
Q. Okay. So you don't know whether, how Mr. McDougal got the $7,322.42 to pay this particular loan at the Security Bank of Paragould?
A. No, I do not.
Q. Okay. Just several more questions on this question of the stationery and then maybe we could take a break. Now, you testified that your secretary had available to her personal stationery and Banking Department stationery, correct?
A. Correct.
Q. And for the, unless you advised her that she should use personal stationery or if it was obviously a personal matter on behalf of yourself, such as a letter to a friend, wouldn't she presumptively use the Banking Department's stationery?
A. Yes. And she --
Q. And so that --
A. Let me, let me say this. She is a, was a very, very astute lady, a stickler for ethics and the do-right rules and she used her total discretion on choosing what ought to be on what, on which stationery.
Q. When you --
A. I seldom ever -- on rare occasion I might clearly

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distinguish if it was something that I just didn't want someone to have anything from State government in their hands. I might say, this is a purely personal matter. It should be done before or after hours, billed to me personally and it should be on my personal stationery. And that was a rare thing because I usually just left it up to her good judgment.
Q. Okay. But you would agree that this particular letter to Mr. Campbell, she -- it would be presumptively something she would write on the official stationery, type on the official stationery?
A. Yes.
Q. She -- you didn't tell her that she had to use personal stationery?
A. I don't remember.
Q. Okay. How do you know, how do you know for sure that you did not sign this letter?
A. I can tell by the signature.
Q. You can tell that this is not your signature?
A. Certainly.
Q. Okay.
A. Sure. Look at this one. I can tell that was Bill Clinton's signature; however, it was probably done with a

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machine. I didn't have a machine, so I used a secretary.
Q. You think Governor Clinton's signature on the extension agreement was done by a machine?
A. I don't know.
Q. So you're just guessing, right?
A. I'm just guessing.
Q. Okay.
A. I do know that they had a signature machine that they kept under lock and key over there and I never had the key.
Q. Okay. Even if you had written this letter to Security Bank of Paragould on your personal stationery, was it the right thing to do for a, the Banking Commissioner to ask a bank that the Bank Commissioner was responsible for regulating to grant an extension of a loan for the Governor?
A. If it met with the bank's approval, yes.
Q. Was that standard procedure while you were Banking Commissioner for you to be writing letters asking banks --
THE WITNESS: Let me do it. There is a trick to it.
BY MR. GIUFFRA:
Q. -- banks that you were regulating to, to extend loans for?

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A. Is it something that I did every day or every week, the answer is no. Were there other occasions in which I became involved with whether or not a bank renewed a loan or not to a particular borrower, the answer is yes.
Q. You identified four occasions, perhaps five?
A. I said three or four or five. Three or four or five.
Q. In the four, four years that you were Bank --
A. That's correct. Four and a half years.
Q. Four and a half years. So maybe one a year?
A. That's correct. Now, given the fact that I was Bank Commissioner, that I was asked to do this by the senior credit officer of this bank, he got his charter from the State Bank Department and I was the Commissioner for it, I see absolutely no, nothing wrong with that.
Q. Why, why didn't the bank just contact either the Governor or Mrs. Clinton and ask them to sign the extension agreement?
MR. COLE: I thought you testified that they had, Mr. Jackson. They had sent --
THE WITNESS: I think that I did testify that when Mr. Campbell handed that to me in church, that he prefaced handing it to me with: A few days ago when I sent an extension agreement to the

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Governor -- and I haven't received it back.
MR. COLE: And, in fact, Mr. Jackson, what he was asking you to do was get a signature on something that he had already decided to do --
THE WITNESS: That's correct.
MR. COLE: -- which is extend the note?
THE WITNESS: That is correct. He prepared the document, brought it to church with him and handed it to me just as the church service starts.
MR. COLE: So you were essentially a courier for him?
THE WITNESS: That's correct. I was accommodating a long-time friend and these, this bank paid hundreds of thousands of dollars in fees to the Bank Department.
BY MR. GIUFFRA:
Q. No. But isn't it also true that the letter says on Paragraph 4: After making the appropriate approval of the extension agreement. Do you see that?
A. That's him making the approval. It isn't me.
Q. Yes. But this indicates that the approval had not yet been made of the extension agreement?

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A. Well, that's a matter of semantics and it's a matter of dictating letters seventy-five, a hundred at a time at 3:00, 4:00 a.m. in the morning, one right after another.
MR. COLE: But it is clear, is it not, Mr. Jackson, that he would have had no need for the signature if he did not wish to --
THE WITNESS: If he hadn't given me the extension agreement, I would never have had it. The letter would never have been written. And it's clear because I knew Mr. Campbell quite well. I had known him 25 years. It says: I trust this meets with your approval.
MR. COLE: I understand, sir, but that's not my point. My point is that he asked you to get a signature.
THE WITNESS: That's correct.
MR. COLE: And he would only have needed a signature if he wished to do extend the loan?
THE WITNESS: That is correct. If he had not wished to, if he was going to say, we've had this loan around here for three or four years now and they're paying only 10-percent principal and

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interest rates are coming down and local loans, the demand is going up, or for whatever reason, if he hadn't wanted to have done it, it would never have existed?

MR. COLE: In other words, if he had wished to call the loan rather than extend the loan, he wouldn't have been sending an extension agreement --

THE WITNESS: That's correct.

MR. COLE: -- for the Governor to sign?

THE WITNESS: That is correct.

BY MR. GIUFFRA:

Q. Do you know whether this loan was current as of November 1, 1985?

A. It is my opinion that, from a legal standpoint, it was current.

Q. Why do you believe it was current as of November 1, 1985?

A. What I've been told by the press and by those who have examined the records.

Q. What specifically have you been told that makes you believe this loan was current?

A. That the interest and a 10-percent reduction in principal had already been made.

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Q. By Mr. McDougal?

A. They didn't say by whom. I didn't say by whom, and I don't know that anybody ever told me.

Q. But, Mr. Jackson, the letter that was sent by Mr. McDougal was dated November 8, 1985 and the check was dated November 7, 1985 and your letter was dated November 1st, 1985. That would make me, that would lead a reasonable person to believe that the loan was past due as of the time --

A. Only if there is a regulatory or a statutory requirement that that extension agreement be signed for a loan to be current, and there was no such regulatory or statutory requirement.

MR. COLE: In other words --

THE WITNESS: The loan was not in default.

MR. COLE: -- the payments had been made on the loan?

THE WITNESS: That is correct.

MR. COLE: But you needed the extension to keep the loan --

THE WITNESS: To be within the bank's policy, local policy. They could have had a board meeting that afternoon, Sunday afternoon, and said, we

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hereby rescind the policy requiring written extension agreements.

I probably had a hundred meetings with bank boards the four and a half years, a hundred different banks over this issue of getting written extension agreements.

BY MR. GIUFFRA:

Q. Well, isn't that because, isn't that because what is sometimes an imprudent banking practice is that banks will take a loan that is not performing and extend it, correct?

A. You would make a great country banker. That is correct.

Q. And that is, that is the way that banks, people --

A. To insure that someone didn't do something untowards or unethical or imprudent for a brother-in-law or a brother or a father-in-law or a son or a daughter or themselves.

Q. Or a governor?

A. Or a governor. It's a good practice to get written documentation defining how much has been extended and the terms under which it's been extended.

Q. Because if people can extend a non-performing loan, okay, you can stretch out the payments, okay, you can conceal the fact that a loan is non-performing?

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MR. COLE: Was this a non-performing loan?

THE WITNESS: No, it was not.

MR. COLE: Well, Mr., Mr. Giuffra's question to you has an assumption in it that a loan --

THE WITNESS: Those are words that he spoke and put in my mouth. I didn't say them.

BY MR. GIUFFRA:

Q. You, you, you --

A. At that time, the prevailing practice in the state was to take a rubber stamp, take a rubber stamp like that and then stamp the, the back of the note and the officer put in the next payment date. That was the prevailing practice in Arkansas. You want to know what the standard in the industry is, which U.S. district judges and U.S. court of appeals say has the effect of law, it becomes common law if it's practiced long enough.

The standard in the industry was you just stamped it, write in the next due date and gone on. And if Mr. Campbell had done that, there would never have been an extension agreement prepared by him, brought to church and handed to me and him asking me as an accommodation to him, not as an accommodation to Governor Clinton, as an accommodation to him

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to get this signed and get it back to him.
Q. But, sir, if Mr. McDougal had not sent the check for $7,322.42, okay, 5,000 for principal reduction and $2,322.42 on interest, might this loan have been non-performing?
A. At some point in time it might have become non-performing.
Q. So you were operating on the assumption that Mr. McDougal would be forwarding a check in the amount of $7,322.42 when you sent --
A. He told, he told me that on the phone, but I believe I stated a lesser amount to Mr. Campbell when I talked to him. I had been promised a lot of times that the check is in the mail and I'm here from the government to help you and, of course, I'll respect you in the morning.
Q. But, sir, but, sir, in the letter that you sent to Mr. Campbell, you discuss the interest payment, which is $2,322.42, correct, which was the amount the interest was reduced, and then you say 4 or 5,000 principal reduction. So you were, what your testimony is, is that you put a $1,000 less on the principal reduction just because you were trying to be safe about it?
A. Yeah. I just wasn't for sure.

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Q. So you didn't know whether Mr., Mr. McDougal was going to be good on the, on the money that was do on this loan, right?
A. I wasn't positive about it.
Q. Why were you not positive?
A. Just experience in banking.
Q. Well, because didn't you know as a fact, sir, as of November 1, 1985, wasn't it common knowledge in banking circles in Arkansas that the Madison Guaranty Savings & Loan Association was in trouble?
A. No, I don't know that I would say that.
Q. Well, you knew, for example, that back in 1983 Madison Bank & Trust which was also, had entered into a cease-and-desist order, correct?
A. You're talking about the bank?
Q. Yeah, the bank.
A. Yes, yes.
Q. Okay. And so, and your testimony is you didn't know anything about the financial condition of the --
A. No, I didn't.
Q. -- the S&L at all?
A. No, I didn't.
Q. But you still had some question in your mind as to

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whether Mr. McDougal would be good for the $7,322.42 that was due on this loan?
A. Mr. McDougal had a political background and a trading background that was known in the coffee shops, not by me personally. And with 25 years' banking experience --
Q. What kind of a reputation did he have exactly?
A. He, he came -- I said he had a political background. He had worked for Senator Bill Fulbright and he had, he had traded some, some properties around --
Q. Real estate developments that he was involved in?
A. Real estate deals around. I don't know what or where, but I had just heard that, you know, that since he was not, no longer an employee of the State or of the Federal government, that he was devoting himself, his attention to these things. And at that time, that loan looked, that whole thing today in retrospect looks absurdly ridiculous, but the fact is, all over the Ozarks, all the way from, from --
Q. Why does the loan look --
A. Missouri to --
Q. But, sir, specifically --
A. -- to the Louisiana gulf, you had those kind of developments occurring.

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Q. Why does the loan today look absurdly ridiculous to you?
A. The, the Clintons wound up having to pay major portions of the loan from funds that she made either practicing law or he made at $10,000 a year as governor.
Q. Well, he made more than $10,000 a year as governor.
A. Not when he was first elected.
Q. Back in this period of time --
A. I think even at that period of time it was still 10,000.
Q. $10,000. How do you know the extent to which the Clintons used their personal funds to invest in Whitewater Development?
A. Just what I've heard --
Q. So you're speculating?
A. -- on C-Span.
Q. You're speculating from news reports, right?
A. News reports. Yeah, I don't -- they've never told me.
Q. Why don't we take a --
A. I have read. I have read their quotes and I've heard quotes from what I believe to be people of integrity in the news media where they said they had paid major portions of their ill-advised venture.
Q. Why don't we take a break right here.

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THE VIDEOGRAPHER: At 3:52.
(A recess was held and proceedings resumed.)
THE VIDEOGRAPHER: We're back on the record. This is the second videotape in the deposition of Mr. Marlin Jackson.
BY MR. GIUFFRA:
Q. Now, Mr. Jackson, it's your testimony that you did not speak -- strike that. Did you speak with Mrs. Clinton about the extension of the loan?
A. You mean like person to person?
Q. Yeah. On the telephone.
A. I don't recall.
Q. Okay. And did you call, you didn't speak to Governor Clinton about this, did you?
A. No.
Q. Now, did there come a time --
A. Now, let me, let me, let me -- you're, we're talking about something that happened 12, 13, 14 years ago. Let me clarify this: If Mrs. Clinton testifies that I spoke to her about that or if Mr. Clinton says that I did, then I would not contradict them.
Q. I understand.

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A. I'm telling you as honestly as I can I do not recall ever having spoken to either one of them. I think I, I recall attaching a little note to that extension agreement that said, please, obtain Bill's signature and return this to me and I'll see to it that it's put back in proper channels.
Q. Now, did there come a time following your involvement with the extension agreement that you contacted Mrs. Clinton with regard to this loan that Governor Clinton had outstanding with the Security Bank of Paragould?
A. It was a joint loan. They both, the both had signed the loan.
Q. Did you ever, did you contact her by telephone about the loan at any point?
A. I don't recall it.
Q. Okay. Let me show you a message slip that's dated DKSN 936. It says to Hillary, HRC -- that must be Hillary Rodham Clinton -- this document has been produced by Mr. Kendall, who is the Clintons' lawyer, and it's from Marlin Jackson, Bank Commissioner. Was your telephone number, back in 1987, 371-1117?
A. I don't have, I don't have the slightest idea what it was.

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Q. Okay.
A. I'm not, I'm not laughing at you, sir. I just don't recall.
Q. Okay. Do you recall --
A. That does not -- if that's what that says, that predictably was the, the number. I'm not saying that it was not. I'm just saying that I don't recall what -- I've had a dozen numbers in the interim.
Q. I understand. I have, I have the same problem, sir.
A. So I don't recall what the number was.
Q. Do you recall, do you recall calling Mrs. Clinton about this loan sometime in March 1987?
A. I do not recall calling her.
Q. All right. Let me show you a message slip. Have you ever seen that document before?
A. No, I have never seen that document.
Q. Well, this note indicates that you left Mr. Fisher's name and a telephone number for Mrs. Clinton, correct?
A. Yes.
Q. Do you --
A. That's what the note says. I hadn't observed it until you pointed it out.

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Q. Do you recall doing that, sir, leaving Mr. Fisher's name and telephone number for Mrs. Clinton?
A. No, I don't recall it. I don't recall any, anything about it. I'm not saying I didn't. Please understand that.
Q. I understand. Who was Mr. Fisher?
A. He was, he was the president of the bank.
Q. President of the bank that you were the majority owner in?
A. He was the president of the bank that I was majority owner of until I became Bank Commissioner and while I was Bank Commissioner, a trust set up held legal title to -- so it's, it is not an accurate characterization to say that I owned controlling interest under, not even -- it doesn't take an expert in law to know, understand that a trust is a totally separate entity over which I had no control whatsoever.
Q. Okay. Now --
A. And Mr. Fisher was one of the trustees.
Q. Let me show you another document. This was dated March 5, 1987, which would be three days after this message was left leaving Mr. Fisher's name. And this is a letter written on the stationery of the Security Bank of Paragould to Mrs. Clinton by Mr. Fisher.

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Dear Hillary, enclosed is a new note in the amount of $14,117.59. This represents the principal and interest on the current note. Upon receipt of the executed note, we will pay the present indebtedness and return the note paid to you. It is my understanding that we will be receiving payment in the amount of $285.13. At present interest rates, this will require the indebtedness in slightly over five years.

Then it goes on to discuss the administerial circumstances surrounding completing the financial statement. And then attached to this document -- oh, that's all. There was nothing attached.

Did you ever see this letter, sir?

A. No. Let me look at it.

Q. Okay. Take your time.

A. But the answer is -- and I heard you read it. The answer is no.

Q. I'd like to show you another letter which is dated March 27, 1987 which bears Bates number DKSN 4085. This is a letter that we obtained from Mr. Kendall, who is the Clintons' personal lawyer. This letter is written, again, on State Bank Department stationery, Marlin D. Jackson, Commissioner. It's a letter to Mrs. Clinton, Rose Law Firm, and it's, the re is

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notes, Security Bank, Paragould, Arkansas. And the letter is signed by you with the name Bank Commissioner in your title. And I'll read the letter into the record. It says, quote:

I recall recently discussing the note that you and Bill have at Security Bank in Paragould. Last fall the interest was paid on your note through September 30, 1986. In order to meet banking regulations, it is necessary for you and Bill to sign the enclosed extension agreement at the bottom of the page on signature lines marked with a green "X" and return it to the bank. Because the interest has already been paid, it is not necessary for you to send in a check. Simply sign the extension agreement and forward it to the bank. By signing the extension agreement your loan will be considered current by bank examiners and will next be due November 20, 1987. The new interest rate is 8 percent, which is an improvement over past years. If you have any questions concerning this, do not hesitate to contact me or Bill Fisher at 239-9571.

And it says, for your convenience, I am enclosing a stamped, self-addressed envelope. Warmest personal regards, sincerely, Marlin Jackson. Do you recall writing this letter, sir?

A. No, I don't recall writing it. But the letter speaks for

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itself.
Q. Is that your signature?
A. No, it isn't. But it was signed, no doubt, by someone authorized by me. The fact that I did not sign it, it doesn't mean that I didn't dictate it and that it was not my letter.
Q. Does, does the letter indicate to you that you were speaking with Mrs. Clinton about this loan?
A. One could conclude that, yes.
Q. Do you recall speaking to Mrs. Clinton about this loan?
A. No, I do not.
Q. Do you recall speaking to Mr. Fisher about this loan?
A. No, I don't recall speaking with Bill about it.
Q. Do you, do you know -- I mean, it would appear from the correspondence that you were sort of acting as the Clintons' banker with regard to this loan at Security Bank of Paragould.
A. I would not typify that -- I would say that it would appear that I was accommodating people that I had worked with 15 years and that I had known 30 or 40 years rather than people that I vaguely knew and I had never worked with in any capacity other than being as Bank Commissioner which, you know, was no great shakes.
We had tellers in our bank who made better salaries than

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the Bank Commissioner did. It's not like being appointed chairman of the Federal Reserve Board. So, no, I don't consider that I was serving as Mrs. Clinton's banker or Bill Clinton's banker. I considered that I was attempting in good faith to do what Arkansas friends do among Arkansas friends and that was to help my friends.
Q. Is it appropriate for the Bank Commissioner to be sending letters on State Bank Department stationery?
MR. COLE: Mr. Jackson, you might want to finish your last sentence. These things are often excerpted in short sound bites for TV. When you say help your friends, the friends you were talking about were not the Clintons.
THE WITNESS: That's correct. Help my friends with whom I had been in close association with for 15 years and, in that particular bank, and whom I had known for 40 years --
BY MR. GIUFFRA:
Q. But that would --
A. -- as personal friends.
Q. That would indicate --
A. And I, and to contrast that to the Clintons, I, I hardly

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knew either one of them.
Q. The letters, though, were written at the request of your friends, correct?
A. Yes.
Q. At the bank? Mr. Fisher, correct?
A. That's correct.
Q. So did Mr. Fisher indicate to you he was having difficulty obtaining --
A. I do not recall.
Q. Let me finish the question. Did he indicate to you he needed your assistance in order to have Governor Clinton sign the appropriate documentation in connection with a loan that he had outstanding with the Security Bank of Paragould?
A. I do not recall him so indicating that.
Q. So do you, do you have any knowledge or recollection as you sit here today as to why you were the person who was sending extension agreements to the Clintons on two occasions with regard to this note?
A. The people in Paragould, a hundred and fifty mile away, erroneously thought that I saw the Clintons every day. And so they would ask me to do things like that. People in south Arkansas erroneously assumed that I saw the Governor or

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Mrs. Clinton every day.
Q. Now, I think you indicated that during the time you were Bank Commissioner you can recall getting personally involved with regard to just a loan of a particular borrower at a bank on maybe five occasions over the four-plus years --
A. Four or five. Well, to the same extent, I got involved in a lot of loans as Bank Commissioner, but not where the borrower had any knowledge of my being involved in any way.
Q. But at least, so that would mean that two of the five occasions involved loans, a loan to the Clintons, correct?
A. That is correct.
Q. Forty percent of the time.
A. But to extrapolate that and to say that that is a result of my friendship with Clinton is a blind leap of faith into nothingness because it was not true.
Q. But you --
A. The truth was I was attempting to accommodate my friends --
Q. At the bank --
A. -- at the bank. And it was a very appropriate thing for the Bank Commissioner to do.
Q. Well, the presumption would be that for some reason the

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bank that had the loan that was, the Clintons were obligated to pay, were somehow having trouble getting the Clintons to provide the appropriate documentation and, therefore, had to go to the Banking Commissioner to get the documentation signed.

A. I have talked to hundreds of people who have deposed all the people involved in this transaction at that bank, and no one has ever said that the bank was having any kind of trouble with the Clintons about anything. I didn't, I just don't agree with your assumption. Your assumption is that the bank was having trouble and thus they asked me to help.

That isn't what happened at all. I lived in the community. Mr. Fisher lived maybe a hundred yards from me. In one instance, Mr. Campbell handed me a deal at church. I don't recall this instance with Mr. Fisher at all. I just don't remember it. I'm not saying it didn't happen. I'm just saying I do not remember.

Q. Let me show you another document. This is, bears Bates Number DKRT 400195. It's a letter written on First State Bank & Trust, Conway, Arkansas, Marlin D. Jackson, Chairman and Chief Executive Officer. It's a letter you wrote to Mrs. Clinton. It says:

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Dear Hillary, I am enclosing a past-due notice on your and Governor Bill's note at Security Bank in Paragould. The principal is $12,444.78 and interest accrued to April 15, 1988 is $665 for a total principal and interest due of $13,109.81. Please, sign the enclosed extension agreement in the lower right-hand column and obtain Bill's signature on same. Also please, enclose your check for $665.03 for the interest. You may pay any amount you wish on the principal; however, a principal reduction is not required. Last year I believe you paid $2,000. Principal reductions may be made at your convenience without penalty. Time is of the essence in this matter. By statute, Security Bank must have an examination that begins prior to the end of the month, of this month. There is statutory provision for State banks to be examined no less frequently than once each 24-month period.

And it says, I am enclosing a self-addressed, postage-paid envelope for your convenience in forwarding these needed documents directly to Security Bank. It signs off, Happy Easter. Do you recall sending this letter to Mrs. Clinton?

A. I think, yeah, I think I do recall sending that one.

Q. Now, is that your signature at the bottom?

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A. Yes. That one's my signature.
Q. Okay. And why did you send this letter to Mrs. Clinton?
A. Apparently I was asked to do so by the bank. I still lived in Paragould. Bill Fisher was still the president of the bank, remained the president until a year or year and a half ago.
Q. So once again, you were, you were, in effect, being the go-between between the Bank of Paragould and the Clintons with regard to the extension of this loan?
A. I was attempting to accommodate the bank; that's correct. I might, I might -- I might point out, as a matter of fact, two things. One, I asked if it would be possible for the staff of the committee to forward these documents so that I might review them. Had that happened, it might have refreshed my memory. I might could have gone either to the bank or the Bank Department and done some research there. But not knowing what to look for has significantly disadvantaged me in attempting to candidly answer your questions.
Q. Well, this is the procedure we follow --
A. Now, having said that, the other thing -- pardon?
Q. This is the procedure we follow with all witnesses because these documents are confidential.

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A. Well, it's kind of like, it's kind of like playing cards where all my cards are all dealt face up and yours are all under the table.
Q. Well, you have as much time as you want to look at the document. I'm just asking whether you recollect seeing the document.
A. Not only do I -- I don't know that I recollect seeing the document so much as I recollect that, sending this to, or even though I know longer was involved in State government, which again bears out the fact that I wasn't doing any of this to accommodate Hillary Clinton or Bill Clinton. I was doing this to accommodate the bank, my friends at the bank, people that I had worked -- might also point out that the loan continued to perform here.
The loan's down from whatever it was to $12,444 principal, and it is my understanding from the investigators of the special prosecutor that a few weeks or months after this that Mrs. Clinton paid the entire balance of the loan off.
Q. Do you recall speaking with Mrs. Clinton about this loan on any other occasions?
A. No.

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Q. Now, do you --
A. Now, understand if Mrs. Clinton or if Bill Fisher says I talked to Marlin Jackson about this and this is what he said, I would not contradict them.
Q. Now --
A. I have no reason to think that they would lie about it any more than I have any reason to lie about it myself.
Q. Now, do you Mr. William Lyon, correct?
A. Yes. I know William Cain Lyon.
Q. And he served on the bank board during the time that you were Bank Commissioner, correct?
A. Yes. Very small part of the time. Very, very short period of time.
Q. And did there come a time when Mr. Lyon resigned from the bank board?
A. Yes, I believe he did.
Q. Do you know anything about the circumstances surrounding Mr. Lyon's resignation from the bank board?
A. Mr. Lyon had a brewery, and I don't remember the date or the time or the circumstances, but sometime prior to his actual resignation, I believe that he mentioned to me that he might resign from the bank board and that, for me not to take

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it personal, that he would be a lot better off if he were serving on the ABC board, Alcohol Beverage Control Board so that maybe he could get a permit. His brewery was in front, immediately in front of one of Little Rock -- at that time, one of Little Rock's better cafe or restaurant -- Fisherman's Wharf.

MR. PRYOR: Cajun's Wharf?

THE WITNESS: Cajun's Wharf. And he had hoped to induce the ABC to let him dispense his wine along with snacks and food and stuff -- his beer, and apparently had been unable to do so. I don't know. I didn't get into the whys and wherefores.

BY MR. GIUFFRA:
Q. Did Mr. Lyon indicate Mr. McDougal had said anything to Mr. Lyons (sic) with regard to any, any matters that might be coming before Mr. Lyon as a member of the S&L board?
A. Mr. Lyon could not have served on the S&L board. There is a statutory prohibition in Arkansas that prohibits an officer, director or shareholder of a commercial bank from serving on the State savings & loan board.
Q. But did Mr. Lyon say anything to you about --
A. And he never said anything to me about --

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Q. -- any conversation he might have had with Mr. McDougal?
A. About anything, no.
Q. Okay. Are you aware of his testimony --
A. Yes.
Q. -- before the Senate Banking Committee?
A. Yeah.
Q. And you don't have any testimony yourself to offer with regard to that matter?
A. No.
Q. The circumstances surrounding his resignation from the bank board.
A. No, I -- I have, only thing I would say is that William Cain Lyon is a, is a free spirit. By that, he is unconventional. But I, and all of my dealings with him through thick and then and through good times and prosperity and through times of adversity, he never, ever lied or misrepresented anything to me. He never ever mentioned going on savings and loan board to me or he never mentioned having any discussions with Mr. McDougal about anything to me that I recall.

MR. COLE: And why could Mr. Lyon not have served on the State savings and loan board?

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THE WITNESS: He was a principal shareholder and chief executive officer of what I knew as the Bank of New Edinburg, New Edinburg, Arkansas. And someone will have to -- that's in Clark County. If you go to Fordyce and go southwest about 16 miles, you'll be there.

What's, do you know the name of the little town they moved to -- other than New Edinburg? That's a pretty high-brow sounding name for the forest, the woods. I mean, it's barely a one-lane road into the town.

MR. COLE: But because of that position he would not have been able --

THE WITNESS: Could not do it.

MR. COLE: -- to serve on the State savings and loan board?

THE WITNESS: That is correct.

BY MR. GIUFFRA:
Q. Okay. Mr. Jackson, we're getting near the end. During the 1992 Presidential campaign, did you speak with any members of the campaign about your tenure as Banking Commissioner?

MR. COLE: It might also help, just to be as

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fair as we can for Mr. Jackson, when you say members of the campaign, he or you may have different ideas about what that means. Does that include Jim Blair, for example?

MR. GIUFFRA: Yeah, we'll get to that.

BY MR. GIUFFRA:

Q. Do you recall speaking to Susan Thomases during the campaign?

A. No.

Q. Do you recall speaking to Loretta Lynch during the campaign?

A. No.

Q. Do you recall speaking with Mr. Blair during the campaign?

A. Yes.

Q. What do you recall about any conversations you might have had with Mr. Blair regarding your tenure as Banking Commissioner?

A. We didn't talk about my tenure as Bank Commissioner. We talked about an article that appeared in the New York Times and maybe other magazines that attributed certain statements to me relative to Madison Guaranty Savings & Loan. And he --

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and I've known Jim Blair, again, for 30, 40 years. We served on the State Board of Higher Education together for some 10 or 12 years and as -- I didn't really consider so much as being connected to the campaign. I considered it more as an act of friendship that I could not --

I needed to be sure that any response I made to metropolitan press was probably better to reduce it to writing, unlike dealing with the Little Rock or Conway or the Paragould or the Jonesboro press, that I could not rely on their sense of fair play about taking things out of context or even misrepresenting, misquoting me.

I mean, the statement they made was absolutely blatantly untrue. It said that I had scolded Mr. McDougal for loans, imprudent lending practices at the savings and loan. And in the history of the world, including whatever time it is today, the Bank Commissioner in Arkansas has never ever had any jurisdiction over savings and loans of any kind.

Q. But you had, you had had discussions with Mr. McDougal about Madison Bank & Trust --

A. No.

Q. -- the commercial bank?

A. Oh, at the commercial bank.

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Q. Yes.
A. I mean, yeah, but you have to remember that was, that was, I had -- I had two discussions with him, including in that the one board meeting. Following that board meeting -- one, the board cooperated 100 percent. And in fairness to Mr. McDougal, he was a hundred-percent cooperative.

Within a few days after entering into this cease-and-desist order and after this discussion about the difference in which way commercial banks operate, and savings and loans, Mr. McDougal and his wife and Mr. Smith and his wife all resigned from the bank and from the bank board. All the loans, they had a time period of about 18 months and in about 10 months, Mr. Bunch, who was there before all this began, and interestingly enough doesn't own a neck tie. He doesn't wear a coat and tie to work. He wears cowboy boots to work and chews Redman tobacco and blue jeans and a blue denim shirt. He's still there.

And he wrote me -- first he called me and that's where you got the -- you have to send a written report in. I think you saw a similar report to what I'm talking about. They cleared up in about, from one-half to two-thirds of the total time they had to clear up their problems, they cleared them

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up. And the bank has not been a problem bank since.
Q. Do you recall discussing with anyone of the Clinton campaign anything having to do with the Bank of Paragould loan that Mr. and Mrs. Clinton had outstanding during the mid '80s?
A. I don't recall discussing that with anyone other than the people in Paragould as they might have approached me about it.
Q. Do you recall discussing the fact with anyone from the Clinton campaign that you had written various letters on your official stationery regarding the Clintons' Paragould loan?
A. I don't remember that.
Q. Did Mr. Blair say anything to you about Mr. McDougal during the course of your conversation with him?
A. No.
Q. This --
A. Not that I recall.
Q. Since, since Governor Clinton became President January 20, 1993, have you had any communications with anyone from the White House about your tenure as Banking Commissioner of Arkansas?
A. Should I be offended? The answer is no, absolutely not.
Q. Okay. So you haven't spoken to Bill, to Bruce Lindsey about it?

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A. I haven't spoken to him. I haven't spoken to anybody at the White House about anything.
Q. Have you spoken to --
A. I haven't been to the White House.
Q. You haven't spoken to Mr. Blair since January 20, 1993 about your tenure as Bank Commissioner?
A. Not about my tenure as Bank Commissioner? I may have spoken to Mr. Blair about one of the people in the Paragould bank was appointed to the University of Arkansas Board of Trustees. When Mr. Blair went off the State Board of Higher Education, he was appointed to the Board of Trustees, University of Arkansas. And I may have teased him about what, the demise of the University versus Arkansas State University at Jonesboro, my undergraduate alma mater.

I may have spoken to him about it or about the Razorbacks folding when the pressure got hot in the Sweet 16s, but I haven't spoken to him about politics or business since the Clintons have been in the White House. I don't think I've seen him but twice. And by that, in a large meeting room here in Little Rock at an event, I think, sponsored by one of our political leaders.

As I was leaving, he was coming in. So when I say seen

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him, have seen him, I don't mean that I went to Springdale or Bentonville or wherever the Blairs live or that he came to Paragould or Jonesboro or to Conway. We maintain two homes -- one in Conway, one in northeast Arkansas.
Q. What is your present position?
A. I'm on sick leave.
Q. But what, what would be your position, chairman and CEO of Worthen Bank?
A. No. I left that bank about a year ago. If I were not recovering from a near fatal automobile accident, I would be chairman and chief executive officer of the Union Planters Bank of Northeast Arkansas, headquartered in Jonesboro, Arkansas. The best of my knowledge, they never ever made a loan to anybody in government. In government.
Q. That's probably fortunate for them.
A. It's fortunate for me.
Q. I don't have any further questions. If Mr. Cole does, we may be near the end of your examination.

MR. COLE: I have a few and I'll be brief because I know Mr. Giuffra wants to catch a plane.

MR. GIUFFRA: We've actually managed to be shorter than we even promised.

FURTHER EXAMINATION

BY MR. COLE:

Q. I just want to go back over two or three things that I think have been thoroughly covered with Mr., by Mr. Giuffra.

Other than the one discussion that you have testified about with Governor Clinton concerning the cease-and-desist order at Madison Bank & Trust, did you ever have any -- during the entire time you served as Banking Commissioner, did you ever have any discussions with Governor Clinton about the Madison Bank & Trust other than the one you testified to here today?

A. You're talking about the bank?

Q. Yes.

A. No, I have not.

Q. And have you ever had any discussion, during the time you served as Banking Commissioner, with Governor Clinton about Mr. McDougal, Mr. McDougal's business activities?

A. No. You have to understand that those people have been friends for years and years. I'm talking about prior to my appointment and for the four and a half years after my appointment.

MR. GIUFFRA: You mean the Clintons and the

McDougals?

THE WITNESS: Yes.

MR. GIUFFRA: And that was common knowledge in Arkansas that they were close friends?

THE WITNESS: Well, I don't know how common knowledge it was in Arkansas. I knew about it. I won't speak for the rest of the state. You know a lot of people don't -- you know, most people in the state of Arkansas don't give a rip about this whole thing. They've got a lot of other more important things to do. They've got crops to make and trees to cut and children to raise.

But anyway, I hardly knew -- I would not have known Jim McDougal if he hadn't, if he hadn't have walked up the first time I met him after being appointed Bank Commissioner and said, I'm Jim McDougal. I would not have recognized him. Now, I did meet him. I want to be totally candid.

I did meet him one time when Bill Fulbright was running for office and he was up in northeast Arkansas campaigning on behalf of Bill Fulbright. He did a extremely good job of alienating the people

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that otherwise would have been disposed to vote for Bill Fulbright.

And I wouldn't presume -- you've got to understand my position. I was appointed by the Governor. I was a red neck country banker. I hadn't worked for Bill Fulbright. I hadn't worked in McGovern's Presidential campaign. I had not been on the Governor's staff.

I would not be so presumptuous nor so naive as to give Governor Clinton advice or discuss him his dealings with Jim McDougal or anyone else.

Now, I did, I do want to let the record stand clear. Every time that I closed a bank -- and I am very pleased that that wasn't very often. One year I served as Bank Commissioner in Texas and closed a hundred, five of which would equal all the money in all the banks in Arkansas. And the four and a half years of Bank Commissioner, we only closed two. And in both instances -- maybe three.

I notified the Governor. I notified the, one was in John Paul Hammerschmidt's district, a Republican. One was in Bill Alexander's district, a

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Democrat. And I notified the Congressmen from that and I notified the Senators and I notified the Director of the State Police.

It just happened every time I closed a bank it was the only bank in town, and people would say nasty things to you. They would kick rocks at you. They didn't throw any at me, but they kicked them at me. And they would throw dirt on your car or your airplane. And so, you know, I would ask the Director of the State Police to send a couple of units at a predetermined time to "X" town and for them to wait in the bank parking lot so that they would be highly visible but not interfere with the changing guard.

The way that works is a Bank Commissioner goes in, enters an order of closure and then turns around and hands all the keys and signs a deal with the FDIC and the FDIC takes it up and you have -- you've already had bids to see who is going to be the successor. And then either the Bank Commissioner or the OCC issues a new charter for whoever the new banker is going to be and you turn around and sign

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that and hand it to that group and they -- the FDIC, the new banker will get together late Friday afternoon and Monday morning a new bank arises. It dies, it is buried and the third day it arises from the dead.

Now, I did tell the Governor, out of respect to his office and because it very well could have and historically in many states, not in Arkansas in recent years -- but in many states, the closing of banks has resulted in riots, particularly if it's the only bank in town.

BY MR. COLE:

Q. Going back to the loan extension agreements that Mr. Giuffra showed you correspondence pertaining to at Security Bank of Paragould, the loan the Clintons had at Security Bank of Paragould, did you ever discuss that loan with Governor Clinton?

A. Not that I recall, no, sir.

Q. Did he ever express any concern or interest in that loan in any of his meetings or discussions with you?

A. No. The man -- I mean, I don't doubt that he knew the loan was there, but his forte was not business and it

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certainly was not banking. No, I never -- I think I would have recalled if I had ever discussed it, in answer, again to your first question. No, I never did discuss the extension agreement or the loan with Governor Clinton and it was never brought up in any meetings in which we were both in attendance.

I discussed it with the bank after they paid it off because I said if you chinchy bankers had let me know when I was Bank Commissioner that I had a, that this loan was here and had not, and was about to be paid off, I would have gotten rid of that Dodge Aries and gotten a Lincoln Town Car like the Governor drove. But I didn't know the loan had been paid off for two or three years after it was paid off.

Q. And in your discussions with your friends at the Security Bank at Paragould, the several discussions that you've already testified to in response to Mr. Giuffra's questions, did they indicate any concern to you about the Clintons' loan or the performance of that loan?

A. No. They were very pleased with it. In fact, they were -- how they ultimately learned that they had been paid off, their loans, a lot of people as they got money and they got out of those high-interest-rate days, a lot of people paid

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all the debts off they could and the loan amount went down and -- what I, they mentioned some of, losing some of their, some of their better loans and that happened to be one of them that they mentioned.

So, no, I never heard them -- and I might say if anyone was going to scrutinize that loan with extra scrutiny, I can assure you that the Federal Deposit Insurance Corporation, which is ultimately going to take all the risks beyond the shareholders -- if there had been any concern about that loan, it would have been a matter of public record, of record for the committee. It would have been well established as having been a substandard or loan of concern, et cetera.

Q. And based on your discussions with your friends at that bank, both at the time they asked you to forward the extension agreements and afterwards, do you have any reason to believe that your role in this influenced the way they handled that loan?

A. No, I do not believe it influenced it in the first instance. In the second instance, I would not think of attempting to influence it. And in the third instance, if I had have had the audacity to have attempted to influence it, they would not have permitted me to have influenced it.

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Q. And your involvement in the matter basically was administerial?

A. That's correct. Trying to, trying to be the good Samaritan and helping a friend out, the friend being a banker in Paragould.

Q. They say that no good deed goes unpunished, so that may be a good place to stop this deposition. I don't have anything further.

MR. GIUFFRA: Thank you very much, sir. We appreciate your cooperation.

THE WITNESS: May I, may I make one thing that I think is important?

MR. COLE: Certainly.

THE WITNESS: I have said that I am not here as an opponent to do harm or to take sides between the majority party and the minority party. I recognize this Committee has an awesome responsibility and that America is ready for the Committee to put this thing behind them, find out all the facts, whatever they are, whoever they hurt. If it's an embarrassment to me that I, that I dictated a letter, then fine, let it be. I'm not embarrassed

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by it, but if someone else is, that's their --
But by the same token, I think it would be unfair to conclude this testimony without my observing that while I have had a very casual professional relationship with Governor and Mrs. Clinton, I have known -- Arkansas is a very small state, less than 3 million people. I have, I have known of them almost a quarter of a century and I have never known of them to do anything illegal, immoral, or unethical or particularly sinful except for the Governor's language when the Razorbacks were losing.
MR. GIUFFRA: I hope you feel like you've had your opportunity here to state, provide your testimony.
THE WITNESS: I think y'all have been very, very fair. I appreciate very much the courtesies you've shown me -- the breaks, your being aware of my health infirmities and your concern over them and in a straightforward candid way, I will say that the methodology of the Committee seriously disadvantages those of us that are trying to rely on 14 or 10 or

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12-year-ago memories.
If I had all the documents that you-all have and had all the time that the Committee's had to look at this, I might have a much clearer picture of what went on back then. I don't -- I walked into this room, you know, with my shirt on and my shoes on and the only thing I had in my brief case and -- I gave it to my attorney.
MR. GIUFFRA: You don't think you need any more time to study the documents today?
THE WITNESS: No, no. I'm not saying you shorted me. I'm just saying --
MR. GIUFFRA: Okay.
THE WITNESS: -- from the beginning.
MR. GIUFFRA: Okay. Well, listen, we very much appreciate you coming down and thank you very much and this concludes the deposition.
THE VIDEOGRAPHER: Off the record, 4:39.
(WHEREUPON, at 4:39 p.m., the deposition was concluded.)

CERTIFICATE

STATE OF ARKANSAS}
}ss.
COUNTY OF PULASKI}
RE: ORAL DEPOSITION OF MARLIN JACKSON

I, CHERYL BARTNETT, CCR, CSR, RPR, a Notary Public in and for Pulaski County, Arkansas, do hereby certify that the transcript of the foregoing deposition accurately reflects the testimony given; and that the foregoing was transcribed by me, or under my supervision, on my Eclipse computerized transcription system from my machine shorthand notes taken at the time and place set out on the caption hereto, the witness having been duly cautioned and sworn, or affirmed, to tell the truth, the whole truth and nothing but the truth.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 12th day of February, 1996.

Cheryl Bartnett, CCR, CSR, RPR
LS Certificate No. 396
Notary Public in and for
Pulaski County, Arkansas

My commission expires: October 7, 2003.

WITNESS SIGNATURE PAGE

I, MARLIN JACKSON, the witness, hereby certify that I have thoroughly read the transcript of my deposition taken on the 12th day of February, 1996, and have made any necessary changes or corrections to make the transcript a true and accurate accounting of my testimony given on that day.

Signature

Date

STATE OF ARKANSAS *
* ss.
COUNTY OF *

I, , a Notary Public in and for County, Arkansas, do certify that above-named witness has read, corrected and signed the deposition in my presence. Given under my hand and seal of office on this day of , 1996.

My commission expires .

DEPOSITION OF SETH WARD
IN RE: S. RES. 120

MONDAY, FEBRUARY 12, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Videotaped oral deposition of SETH WARD, taken before JEFF BENNETT, Certified Court Reporter, LS Certificate No. 19, a Notary Public in and for White County, Arkansas, at 9:20 a.m., at Bushman Court Reporting, 620 West Third, Suite 101, Little Rock, Arkansas.

APPEARANCES

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THE ORAL DEPOSITION OF SETH WARD, a witness produced in the above-styled and numbered cause on the 12th day of February, 1996, before Jeff Bennett, CCR, LS #19, a Notary Public in and for White County, Arkansas, at Bushman Court Reporting, 620 West 3rd Street, Suite 101, Little Rock, Arkansas at 9:40 a.m..

SETH WARD

the witness, being first duly cautioned and sworn or affirmed to tell the truth, testified as follows:

VIDEOGRAPHER: We're going on the record. Today is February 12, 1996. The time is 9:40 a.m.. This is the videotaped deposition of Mr. Seth Ward for the hearings conducted by the Senate Special Committee on Whitewater.

MR. GIUFFRA: Good morning, Mr. Ward. My name is Robert Giuffra. I am the Chief Counsel of the Senate Banking Committee. Across the table from me is Lance Cole, who is the Democratic Deputy Special Counsel.

This is a deposition that's being conducted pursuant to Senate Resolution 120. This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation of Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

Now, the procedure this morning is as follows: Mr. Cole and I will be asking you a series of questions. You'll be under oath. If you don't understand a question, let us know and we'll rephrase it. If you need a break at any point today, let us know and we'll take a break.

The court stenographer will prepare a record of the questions and answers. This deposition will be treated as

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committee confidential until it's made public.
We're also preparing a videotape of this deposition which may be shown, in whole or in part, at the committee's public hearings.
Now, you have a right to be represented by counsel, if you would choose to do so, and you've decided not to be represented by counsel?
A. No.
MR. GIUFFRA: You should speak loudly into the microphone just so you'll be heard.
A. Well, I don't care for counsel.
MR. GIUFFRA: Okay. You can object to the questions if you don't understand them. You can also object if it in some way would cause you to evade an attorney/client privilege you might have or if you think it goes beyond the scope of our resolution.
Do you have any questions before we start?
A. No.
MR. GIUFFRA: Okay. Would you please swear the witness.
(The witness was sworn.)

EXAMINATION

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BY MR. GIUFFRA:
Q. Mr. Ward, am I correct that you first became involved with Madison Guaranty Savings & Loan in the summer of 1985?
A. That's correct.
Q. And you were hired as a consultant by Madison Guaranty?
A. I was hired to try to find property that they could buy. And if they purchased the property and developed the property and sold the property, I'd get 10 percent commission of the sale price when they sold it. I also was to receive $25,000 a year. But it was a -- considered a part-time job, because I was -- I did not have to punch a clock. I didn't maintain any hours. Whenever I was -- had time to go look for property.
Q. Now, am I correct that Webster Hubbell is your son-in-law?
A. That's correct.
Q. And he occasionally performed some legal services for you and your family?
A. I'd say seldom, but not in connection with -- anything connected with Madison.

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Q. But he sometimes performed some legal services for you and your companies or your family?
A. Well, prepared a Will, such matters as that.
Q. Did he work on a case called -- involving POM for your family?
A. Not for my family, but POM --
Q. POM, which is a company that you -- your son Seth Ward, Jr. -- Seth Ward II is an officer of?
A. No, he owns it.
Q. He owns it. Now, do you know Hillary Rodham Clinton?
A. Yes.
Q. How do you know Hillary Rodham Clinton?
A. I was on the Airport Commission for a number of years, and we hired Mrs. Clinton as our attorney.
Q. When did you first meet Mrs. Clinton?
A. Well, I would say about -- sometime about '75, somewhere in there.
Q. Do you know Bill Clinton?
A. No. I've met him.
Q. But you know Mrs. Clinton reasonably well, would you say?
A. I would say so.

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Q. And she provided legal services to the Little Rock Airport Commission when you were a commissioner?
A. That's right.
Q. Okay. You worked for Madison between 1985 and 1986; is that right?
A. That's right.
Q. Now, when you worked for Madison, do you recall working with any attorneys from the Rose Law Firm?
A. No, I do not. I know it's been stated that a Mr. Thrash was present when we closed the purchase of the Industrial Development Company. I do not know Mr. Thrash. And if he were there, I would have only assumed that he was part of the staff of Beach Abstract Company, but I didn't know it.
Q. Now, you're familiar with the Rose Law Firm, right?
A. Yes, I am.
Q. And --
A. To some extent.
Q. Now, the IDC transaction is the Industrial Development Corporation property that you helped bring into Madison; do you recall that?
A. I didn't hear your question.

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Q. You recall bringing into Madison the proposal to buy the Industrial Development Company property?
A. Yes.
Q. And this was a transaction you brought to Mr. McDougal, correct?
A. I didn't hear the question.
Q. You brought this transaction to Mr. McDougal's attention in 1985?
A. Yes, I did.
Q. And was the entire property known as Castle Grande?
A. No.
Q. Was it known as Industrial Development Corporation?
A. That's right.
Q. Was any part of the property known as Castle Grande?
A. Later on, after it was purchased, Mr. McDougal named a portion of it Castle Grande.
Q. So, after it was purchased, Mr. McDougal named a portion of the property Castle Grande?
A. That's right.
Q. Did he refer to the entire property as Castle Grande or just a portion of the property as Castle Grande?
A. As far as I know, it was just that portion.

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Q. And this would be the portion having to do with the trailer homes?
A. Yes.
Q. Now, you were involved in negotiating the price of -- to purchase this property from IDC, correct?
A. Yes. Am I at liberty to tell you how this came about?
Q. Certainly. Just tell us on the record.
A. In the first place, I want to remind you that some things I remember and some things that I don't and some things that I'm recollecting to the best of my ability.
But, after I had been with the Industrial Development Company, I don't know, three months or so --
Q. You mean, Madison? You were with Madison --
A. Excuse me. Madison. Mr. McDougal asked me if I knew anybody associated with the Industrial Development Company, and I replied that I did. He said, "Well, Madison can buy some property south of the Industrial Development Company from the International Paper Company at a bargain price. But the trouble is it's landlocked. There are no roads going in to or out of it. Would you ask the Industrial Development Company if we could have an

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easement from 145th Street south through that portion of the Little Rock Industrial Development Company into the International Paper Company property?" And I replied that I would go ask. I went to the late Everett Tucker, who managed the Industrial Development Company. And he told me that he wouldn't give an easement, but that he would sell the entire property. I asked him for how much. He told me it was worth $9 million. That it was on their books for $3 1/2 million, and that's what they would sell it for.

At that point in time, I informed McDougal that he would not give an easement, but they would sell the entire Little Rock Industrial Development Company to him for $3 1/2 million. McDougal became somewhat indignant and said that he couldn't afford to pay that much. And it made no difference to me, I was just a messenger.

I would like to state at this time that at no time did I have any idea what Madison's financial structure was. I did not know of what their so-called ratio was versus assets and lending limits. I had no knowledge of it at all. I had never known Mr. McDougal prior to the time that I became involved with him. I met him through a

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mutual -- well, through a friend.

Q. This is Mr. Denton?

A. Denton. I met him through Don Denton.

MR. COLE: Who was Mr. Denton?

A. Don Denton used to be the chief loan officer for Union National Bank. At the time I met McDougal, he was the chief loan officer for Madison Guaranty Savings & Loan. And he invited me to come down and see his new office. And while I was there, he introduced me to Mr. McDougal.

After telling Mr. McDougal of the reply of the Industrial Development Company, I learned that the Industrial Development Company was in the arrears on a bank loan. As a matter of fact, there was three banks working in conjunction with one another that had loaned the Industrial Development Company $2 million, and they were in the arrears for about two years. And the thought occurred to me that I would get the banks to discount those notes. I personally purchased those notes and foreclosed and thereby owned the property myself.

I met -- I can't remember his name, but one of the -- either a president or vice president --

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Q. (BY MR. GIUFFRA) Brick Lyle?
A. -- of First Commercial Bank, and was Brick Lyle. And Brick Lyle was one of about six men who owned the Little Rock Industrial Development Company. We negotiated a price whereby I could buy it for a million seven. And I was preparing to purchase it myself, because at that price and all that it entailed would have been a substantial bargain, at least wise to me.

But then I recalled that I was drawing $25,000 a year from Madison. So I felt honor-bound to run it by Mr. McDougal. At that point, he said, "Well, at that price, we'd like to share it with you." And I asked him what he had in mind. He said, "Well, for $600,000, we'd like to buy all the property south of 145th Street." And I would take all the remaining property, which would have been north of 145th Street, plus some property over off of the other industrial development location on 65th Street, plus the utilities both north and south of 145th Street. And for that my share would be a million and seven. Excuse me. A million one-fifty. So I told him that I would arrange my own financing. At which point, he said, "That won't be necessary. Madison will finance it. Madison

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Guaranty will finance it for you." And as a matter of fact, he stated that since it was such a good deal they would be able to finance it for me on a non-recourse note.
Q. And non-recourse means that if you defaulted on the loan Madison couldn't go after your personal assets?
A. That's right. They would go after the property itself.

I wasn't inclined to change those terms, the terms that he had stated. After we made the verbal agreement, which included, incidently, he wanted the right to help me sell all the property. And he wanted an option for 270 days, for which he agreed to pay me $35,000 for that option. And --
Q. Now, did Mr. McDougal ever say anything to you about why he was structuring the transaction so that you would buy some of the property and that Madison Financial would buy another part of the property?
A. None other than the fact when he said, "At that price, we'd like to share it with you." He never told me anything at all about any limitations, loan limitations, and I had no knowledge of any of their loan limitations.
Q. Did you subsequently learn that there was a loan

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limitation that was driving Mr. McDougal to structure the transaction as he did?
A. Well, not immediately. I did later on, which I'll explain to you later on. But it was quite some time down the road. But not at all during the time that he was -- they were putting the deal together and selling that property.
At that time, in the newspapers here in Little Rock, there was a description of a new highway that was going to circle the south side of Little Rock. It went from Highway 30 to Highway 68, I believe it is, which is the Little Rock/Pine Bluff highway.
MR. COLE: Highway 65?
A. 65. And it would dissect Highway 65 right there at 145th Street.
Now, the property which would be in the northeast quadrant of that intersection, 21 acres known as Holman Acres, would have been an ideal location for a shopping center. So I didn't want to sell it, and I excluded it from my -- from the deal.
MR. COLE: When you say you excluded it from the deal, does that mean that --

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A. He could not sell it.
MR. COLE: -- the option that you gave Mr. McDougal for 270 days did not include --
A. It did not include it.
MR. COLE: -- that property?
A. Once we made our verbal agreement, Mr. McDougal appeared to me to become somewhat excited. And he assumed the leadership role. He stated that Madison would make -- purchase it. And he gave me several memorandums and directives. Since none of them violated the terms of our verbal agreement, I didn't object.
Now -- so we went to reduce this in writing. I asked Webb Hubbell if he would help me. And Webb said no, that he couldn't because his firm represented Madison.
MR. COLE: And what were you asking Mr. Hubbell to help with you?
A. Write the agreement.
MR. COLE: To write the agreement with Mr. McDougal?
A. Write the agreement.
Q. (BY MR. GIUFFRA) And is this the agreement that was dated September 24, 1985?

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A. Yes.
Q. And it was backdated?
A. Nothing was backdated per se. I'll explain it to you.
Q. Okay. Just tell us the story?
A. He said that he could not represent me because his firm represented Madison. I frankly felt like that it was a -- his polite way of saying that he didn't want to spend the time on the matter, because I did not believe his firm -- at that time at least, I did not believe that his firm represented Madison, because I had never seen anybody from Madison there.
Q. From Rose?
A. From Rose. I had never seen anybody there. And I had never heard of them being referred to by anybody at Madison that I recall.
And as a matter of fact, they had a lawyer on their board named Steve Cuffman and --
Q. This is on the Madison Board?
A. Yes. And Steve Cuffman was there quite frequently. And I frankly assumed, right or wrong, that he was their attorney.

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Q. What law firm was Steve Cuffman with?
A. I don't know. I guess it's his own firm.
But, anyhow, I asked Webb -- I'd been hearing on the radio, from what I've listened in to on these hearings so far, that there were two agreements. And actually there were three written.
Q. By "three agreements," you mean agreements between yourself and Mr. McDougal?
A. Uh-huh. And I -- I will give you that in a second.
I asked Webb could I use his secretary to type an agreement for me, and he said yes. Well --
Q. Now, was that something you occasionally did?
A. No, but I needed a secretary.
Q. Okay. So you did not normally use Mr. Hubbell's secretary to be your secretary or to type things up for you?
A. No, no, no. I asked him if he could -- if I could use her and he said yes, I could.
And I dictated her an agreement to her. And after -- I had never dictated an agreement to her before. And after it was completed, I read it. And I decided that it wasn't what I wanted. It didn't include what all that I

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wanted. So neither Jim McDougal or myself executed it. But it was dated September the 23rd. You can have a copy of it.
Q. Thank you, sir.
MR. COLE: Did you show that to Mr. McDougal and discuss it with him or did you just look at it yourself and decide --
A. I just looked at it myself.
Q. (BY MR. GIUFFRA) Did you show this agreement to Mr. Hubbell?
A. I didn't use Mr. Hubbell.
Q. No. But did he look at it after it was typed for you?
A. No.
Q. So he never saw this document that's dated --
A. Not as far as I know.
Q. -- September 23, 1985?
A. Not as far as I know.
I didn't -- after he told me that he didn't want to represent me on this, I certainly wasn't going to involve him.
On the 24th, Ms. Sue Strayhorn wrote the agreement.

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Q. Who is Sue Strayhorn?
A. She was Mr. McDougal's secretary.
And she wrote the agreement. And it was -- that's the one on the 24th, which I think you're familiar with. But, at a later date, both Mr. McDougal and I exercised -- signed the agreement and we executed it.
Q. And, Mr. Ward, is it this document that bears the Bates No. SWI-008 to 009, and it's got "void" written across the --
A. Yes.
Q. Okay. This is the first --
A. This is the second one. This is the one that Ms. --
Q. Strayhorn typed.
A. -- Strayhorn wrote.
Q. Okay. So the first one you talked about was the one that you and -- you typed at Mr. Hubbell's office -- had typed at Mr. Hubbell's office?
A. That's right.
Q. Which you just gave us today, which is dated September 23, correct?
A. That's right.
Q. And why was this -- why did this agreement dated

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September 23, 1985 not set forth your agreement with Mr. McDougal?
A. That didn't include all that I wanted in there. That's all.
Q. What was missing?
A. Well, I would have to compare it at this point in time. But, right off the bat, I can tell you the commissions weren't proper. I didn't use it.
But, anyhow, they had Ms. Strayhorn write it. And at a later time, and I don't recall how -- whether it was a week or two weeks or a month or when, I discovered that this agreement marked "void," written on the 24th, did not include the exclusion of Holman Acres.
Q. Okay. So this was about ten days to two weeks after September 24?
A. Sometime thereafter. I don't know the exact times.
Q. Do you know how -- was it a month?
A. I don't recall.
Q. Okay.
A. I know it was afterwards.
Q. Was it a substantial period of time afterwards or just several days?

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A. I would say -- I don't know. I would say several weeks.
MR. COLE: Let me ask you this, Mr. Ward. The documents that we have indicate that the closing took place on October 4th. And we can show you those documents. Do you recall whether it was before or after the closing that you noticed that this --
A. It would be after the closing.
MR. COLE: It was after the closing?
A. It would have had to have been.
But, anyhow, when I discovered that --
Q. (BY MR. GIUFFRA) Why do you say it had to be after the closing?
A. Because I think I would have observed it at the time of closing; that's why.
Q. So you think you may have observed there was a problem --
A. Also, the -- also, the legal descriptions were passed out at closing and I would have noticed it.
Q. So you think you may have noticed the problem with the letter that Ms. Strayhorn drafted at the closing?
A. I didn't -- I did not notice it at closing.

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Q. So it would have been after the closing?
A. That's what I say.
Q. Okay.
A. Now, when I observed it, I asked two lawyers; one being Webb Hubbell, on a hypothetical basis, not as a -- not as a representative of Madison or anything, what my problem was and asked if there would be any problem in replacing the first agreement with the second agreement corrected with the same date. He says, "No, it would be -- if you want to -- if there's an error in the first agreement and both parties agree to the change, it's perfectly legal and perfectly proper to replace the original one with a new original one of the same date." And since this has come up in the hearing, which I've heard, I've also checked with a couple of other lawyers, and they all confirm that that was perfectly proper.
Q. Okay. So Mr. Webb Hubbell told you you could do this back in 1985?
A. I said, "on a hypothetical basis." I checked with him and another lawyer before.
Q. Do you remember who the other lawyer was?
A. No. But give me time, and I might remember.

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Q. Okay.
MR. COLE: So what happened next, after you checked with the lawyers?
A. I wrote it out myself, this time on yellow paper, and asked Webb if his secretary would type it for me, and she did. And Mr. McDougal and I both executed it.
Q. (BY MR. GIUFFRA) Did Mr. Hubbell look at any of the -- the draft that you had written on the yellow pad?
A. No.
Q. So he never -- did he see it after it was typed?
A. No, not that I know of.
Q. So he never reviewed it, as far as you're concerned?
A. Webb stayed hands -- hands-off.
Q. So this would be on the second letter dated September 24, 1985?
A. Yes.
Q. And he stayed hands-off because he did not want to get involved because Rose was representing Madison?
A. That's what he had told me.
Q. Did he tell you that back in 1985?
A. Yeah, he told me early on that he -- when I first -- the first time he told me was when I first asked him to

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write -- help me write a letter. That's when he said he couldn't do it.
Q. Okay. Now, what happened next, sir?
A. Well, what do you mean, "what happened next?"
Q. After you had the agreement that was signed by Mr. McDougal and yourself dated September 24, did you then get involved in trying to sell some of the properties?
A. The reason why I gave Mr. McDougal the option to sell the property is because I wanted to sell it. I only bought the property to speculate.
Q. Short-term speculation?
A. Huh?
Q. Was it short-term speculation?
A. Yes. Well, short-term, I mean I -- I wasn't -- I didn't think it was going to be as short as it turned out to be. Because, in a matter of a few months it seems, Mr. McDougal had sold it all.
Now, granted, that in looking back in retrospect some of those sales were highly questionable.
Q. Why do you say, "some of those sales were highly questionable?"
A. Because I have -- I have since heard of the -- some

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of the people he sold the property to, ah, they were contested. Some of the people --
Q. They were Madison insiders?
A. Yes.
Q. So they weren't putting up any money to buy the property?
A. I don't know what they put up.
MR. COLE: Before we begin to talk about the subsequent sales of the property, could we switch over and let me ask Mr. Ward some additional questions about the initial purchase.
EXAMINATION
BY MR. COLE:
Q. Before we shift gears, Mr. Ward, and begin to talk about the sales of the property after you and Madison Financial purchased it, I had a few more questions about when you initially purchased the property from Industrial Development Company. What was the size of the parcel when you first looked at it with IDC?
A. I can't correctly answer that at this time. As near as I can recollect, it was about 1,100 acres.
Q. So it was over 1,000 acres?

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A. Yes.
Q. And what was the original asking price from -- that IDC was asking for the property?
A. $3 1/2 million.
Q. Was there an appraisal on the property at that time, do you recall?
A. I don't recall. But I do know that the property out there with utilities would certainly be worth 2 to $3,000 an acre, if you wanted to do anything with it at all.
And I might add, if I could interrupt myself and you too?
Q. Certainly, sir.
A. I wasn't surprised when McDougal asked for the property south of 145th, because that was what he was interested in mostly anyhow so he could get the easement to the IPC property, plus the fact that a lot of it -- of that property I knew was in the floodplain. It would have presented a problem to me anyhow.
Q. Let me ask you this about the property that Mr. McDougal was interested in south of 145th Street. Do you know what kind of real estate development projects Mr. McDougal was doing at Madison Guaranty at that time; were

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they residential or were they industrial?
A. Residential.
Q. So --
A. As far as I know.
Q. And the property that you acquired that was north of 145th Street, was that property residential or industrial?
A. Well, now, all the property out there had originally been platted and developed for industrial use. But there was no industrial growth out there at that time. And McDougal obviously wanted it for residential development. I wanted it for however I could sell it.
Now, the -- it wasn't but just about a month or so after we acquired the property that McDougal told me he sold, I don't know, 4 or 500 acres of my property north of the highway to J. William Fulbright. And in a matter of a few months, it appeared that he sold it all.
Now, the first time that I felt that I was being had, which I -- do you want me to talk to --
Q. You keep going, sir.
A. I don't know which one of ya'll want to hear me when I say I had been had.
Q. I suspect that we both do.

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MR. GIUFFRA: Tell us how you believe you were had by Mr. McDougal?
A. He came to me one day and said, "I have a buyer for the sewer and waterworks." And I said, "You do. For how much?" He said, "$350,000." "To whom?" Said, "Jim Guy Tucker. Is it agreeable to you to sell it at that price?" Well, I thought that was relatively low. But if he had a buyer at that price, I agreed he could go ahead and sell it. But about three or four days later, maybe a week, whenever, I discovered that he didn't sell it to Mr. Tucker for 350. That he had sold it to him for $1,250,000. And that was McDougal's way of not having to pay me that much commission or to credit my note that amount.
Q. (BY MR. COLE) Under your agreement with Mr. McDougal, you were entitled to a 10 percent --
A. Yes.
Q. -- commission on that kind of sale?
A. Yes, on any of the sales. And principal would be applied to my note.
And so, there's an old saying, "That if you sleep with the dogs, you wake up with the fleas." And it's

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obviously been the situation with me in this case.
But I will have to tell you on the front end, I had no knowledge at all that Mr. McDougal was anything but an honest, reputable businessman. I had never met him before. I may have told you earlier on here, but I -- the only thing I knew about the company really was after I had been with him for a week or two they had a big party, office party celebrating their one hundred millionth dollar deposit. And, frankly, that impressed me. I figured any outfit with a $100 million ought to be fairly sound. And that's the way I believed the company to be until they didn't pay me any commissions.
Q. I have one more question, Mr. Ward, about the -- before we get into the commissions and the sales -- about the closing of the property, the initial purchase. Did that take place at Beach Abstract --
A. Yes.
Q. -- Company, you testified earlier. And you don't have to study these, but these are the settlement statements from Beach Abstract, dated October 4, 1985, for the closing. Is that consistent with your recollection that the closing occurred on October 4, 1985?

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A. Well, it would have had to have been.
Q. And it appears from these closing statements that your portion of the property for $1.15 million was divided into two parts; one for $750,000 and one for $400 -- a little over $400,000. Do you recall that aspect of the transaction?
A. I don't recall it. I'm sorry.
Q. Let me ask you this, sir. These settlement statements indicate that mortgages will be taken out; one in the amount of $750,000 and one in the amount of $400,000, by the purchaser and that was you?
A. (Witness viewing document.)
Q. And take all the time you need to look at those documents.
But my question is going to go to the financing that Madison provided to you.
A. (Witness further viewing documents.) Well, this doesn't tell me -- it doesn't tell me -- it doesn't itemize it.
Q. That's my question, sir. Because you testified that the financing that Mr. McDougal offered you at Madison was on a non-recourse basis. This is a copy of the Promissory

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Note you signed at Madison Guaranty Savings & Loan for $1,150,000?
A. Uh-huh.
Q. And it states -- and you can follow along with me. I'll read the portion of this note that indicates that it's non-recourse to you and correct me if I'm wrong, is the portion at the bottom that states, "Not withstanding anything herein to the contrary, makers and payee covenant and agree that makers, their heirs and assigns shall not be personally liable to the holders of this note for any default which may occur in the performance of any of the terms hereof undertaken or required to be performed by makers, including but not limited to all installment payments due hereunder." And it goes on to say that, "The sole remedy of the holders in the event of any such default shall be to proceed against the collateral encumbered mortgage securing," and the last line is hard to read, but I assume it says, "the property."
Is that the portion of the note that made it non-recourse and secured only by the property, Mr. Ward?
A. Yes, and I told you early on --
Q. Yes, sir.

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A. I told you early on that he said, "At that price, I'd like to share it with you." And he also -- when I told him that I would arrange my financing, he said, "We'll finance it for you. And, in fact, it's such a good deal, it will be a non-recourse note."

Now, I'll be honest with you, somebody offers me a non-recourse note, I'm not going to try to make them change their mind.

Q. I understand. What's the date of that note, Mr. Ward? If you look in the upper, right corner.

A. October the 15th.

Q. And what was the date of the closing on the settlement statements that you have there?

A. October the 4th.

Q. So the terms of this note were arrived at subsequent to the closing, according to this documentation?

A. Well, that's what it appears.

Q. So if a lawyer or a lawyer from the Rose Law Firm had been at the closing, and I realize you don't recall whether or not that was the case, but the Promissory Note that made your financing non-recourse was not executed at the closing it appears from the documents. Do you have

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any recollection about that, sir?

A. I don't have any recollection.

MR. GIUFFRA: You don't have any recollection one way or the other?

A. No, I don't.

Q. (BY MR. COLE) Do you recall whether the financing terms were discussed at the closing, beyond what's shown on the settlement statements?

A. No, I do not.

MR. GIUFFRA: Did you believe that the financing terms were set at the closing or after the closing?

A. I think the financial terms were set before the closing.

MR. GIUFFRA: Before the closing. And the financing that you were going to receive to purchase the property, was that something that was decided before the closing as well?

A. I'm sorry?

MR. GIUFFRA: How you were going to finance your portion of this, in terms of whether Madison would give you a loan, was that done before the closing?

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A. As I understand your question; how was I going to finance it?
MR. GIUFFRA: Yeah. Was that decided before the closing?
A. Yes.
MR. GIUFFRA: So whether Madison was going to give you a loan for the purchase price --
A. Yes, I told you that.
MR. GIUFFRA: And that was going to be a non-recourse loan?
A. I told you that when I told him when I was going to buy the property, he wanted to share it with me, and he said that -- at that point I told him that I would raise my own financing. He said, "Well, Madison will handle the financing for you." And then is when he told me it's such a -- "because its such a good deal, you won't have to -- it will be a non-recourse note."
Q. (BY MR. COLE) And that was a discussion between you Mr. and Mr. McDougal?
A. Yes.
Q. Was anyone else present that you recall?
A. I don't recall.

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Q. Were there any lawyers present?
A. No.
Q. And this was a discussion that took place prior to the closing?
A. Yes.
MR. COLE: Thank you.
A. I would have had no problem whatsoever financing it myself.
Q. (BY MR. COLE) You were prepared to purchase the property yourself if Mr. McDougal had not offered to buy --
A. If he hadn't offered to buy it, I was going to.
Q. You would have bought the entire parcel?
A. I would have bought the entire parcel. In retrospect, I wish I had.
Q. And you had told us -- you had begun to tell us about the sale of the water and sewer utility?
A. Well, that's when I decided I was in a new ballgame. I made a few notes here myself. I demanded that I get -- be paid my commission. And I was told that -- by John Latham, that Madison Financial Corporation was not in a financial position at that time to pay me.

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Q. Who was Mr. Latham at that time?
A. He was president of the company.
Q. At Madison?
A. Yes. He said, "We'll you -- if you need the money, we'll loan you some money." I said, "Well, you owe me money and then you loan me more money, I'll owe you twice as much and that's not -- that doesn't make sense." He said, "Well, we'll loan you -- we could loan you -- if you need some cash." And I needed -- I needed -- I had a need for some cash. "We'll loan you $400,000 and secure it with the -- with a mortgage on the Holman Acres." I said, "So." "Yes, but then we will give you -- we'll have Madison Financial give you a note for $300,000 to offset it."
Q. And that $300,000 note would evidence what you contended Madison owed you for commissions?
A. That, plus. Now --
Q. And when you say, "that, plus," you felt they owed you --
A. Because the commissions amounted to more than that.
Q. You felt they owed you more than $300,000?
A. That -- now, later on, and I can't tell you how late

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it was. I don't know. But I saw that the rode was not going to come through.
MR. GIUFFRA: Madison was not going to come through?
A. The road. The new highway I was talking about.
Q. (BY MR. COLE) The bypass that would intersect --
A. Yes.
Q. -- Highway 65 where your property was located?
A. I learned that rode was not going to be built. I also learned that McDougal wasn't going to build all the houses that he had promised to build. McDougal wanted that property and --
Q. "That" being the property that's referred to as Holman Acres?
A. Yes.
Q. In the northeast quadrant?
A. He wanted it. So I deeded it back to him as the collateral. And so they had my property, which in effect they had purchased for $300,000. Now, I had borrowed 400, but I had paid back a 100.
And this was another time -- another thing that took place after the waterworks. I told you I didn't know

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anything about their financial structure. A friend came to me one day, and said that, "Mr. McDougal needed some cash in Madison Financial and would we loan him $200,000?" And I said, "Well, I don't exactly have $100,000 to lend." He said, "Well, Madison Guaranty Savings & Loan will lend it to us." I said, "Well, that's like robbing Peter to pay Paul." He said, "But it doesn't make any difference where it came from as long as it doesn't come from McDougal." "Okay, I'll loan a hundred." So that's when I increased the loan that was made on the Holman Acres from $300,000 to $400,000.

But then two days later a friend came back and said, "McDougal under estimated the amount of money he needed. He needs $400,000." And I said, "Well, that's more than I want to get involved in." He said, "Well, he'll collateralized it with all the uncommitted property south of 145th and that's certainly excellent collateral." I said, "Yeah, I know. But you're the real estate man and I'm not."

Q. Who was the friend that you had this discussion with?

A. Well, Mr. Bob Wilson. I said, "You're the real estate man and I'm not. So I think I'll back out of the

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deal."

So I got my $100,000 back and reduced the loan which amounted to $400,000 on the Holman Acres back down to $300,000. And I understand that Mr. Wilson did, in fact, lend the $400,000 out of his own pocket to McDougal and he secured it with the property. And that ultimately the FSLIC or RTC or whoever paid off the loan. The --

Since I never received my commission, as you know, I later sued Madison. And I was flabbergasted in the suit to learn what had actually transpired. That the lawyer representing FSLIC, her only motive, I guess, was to trap me, so to speak. She asked the Madison controller, "How much commission on this property -- on the sale of the property, how much commission did Jim McDougal make?" And he said, "Ten percent." Said, "How much commission did Susan McDougal make?" He said, "Ten percent." This is all in court here, court records. Said, "How much money does John Latham make?" Said, "Ten percent." "How much money did Susan McDougal's brothers make?" One time or other -- one of the other, "They each made 10 percent." "How much money did Seth Ward make?" "Nothing." I never got a dime. And so I wasn't part of any of their scheme.

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And I never colluded. And I've been accused of everything imaginable on -- in these hearings.

One Senator or somebody said, "I wasn't smart enough to draft an agreement. I was just a college dropout." As a matter of fact, our country was at war and I quit college to join the service. After the war, I had an opportunity to stay in the service and I did. Now, maybe -- maybe I'm not smart enough to write that agreement, according to the Senator or whoever made that remark. But I started my own business from -- literally from scratch.

Q. This was after you left the service?

A. After I left the service. And at one time I hired approximately 1,000 people.

I'm not familiar with that Senator's military record or his business record. I apologize for having made that comment, but I was deeply offended when I heard that on television.

Q. This is your opportunity to tell your story, Mr. Ward. So feel free.

A. Now, I've kind of recited to the best of my ability everything that transpired in the transaction with Madison and the Industrial Development Company. I can anticipate

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you have several other questions.

MR. COLE: Why don't we take a break.

MR. GIUFFRA: Let's take a break right now.

(A recess was had.)

EXAMINATION

BY MR. GIUFFRA:

Q. Mr. Ward, what was -- when did you first learn that Mr. McDougal structured the transaction with you having purchased part of the IDC property in order to avoid the investment limitation on the amount of money that Madison Guaranty could invest in Madison Financial?

A. I never learned that. I never had any knowledge, as I stated previously, of their financial structure.

Q. Did there come a time when you learned that the transaction, after the fact, had been structured as it was in order to avoid this limitation?

A. Madison Guaranty Savings & Loan --

Q. Yeah.

A. -- or Madison Financial?

Q. Either one.

A. Well, yeah, later -- I never knew that Madison

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Guaranty had a problem. But I learned that Madison Financial had a problem when I told you they wanted to borrow $400,000.
Q. But did anyone tell you that they needed the $400,000 because of this direct investment regulatory limitation?
A. No. I was told that he needed to borrow the money to keep their ratio, I was told, of loan versus assets or whatever in line.
Q. When did you first learn that Mr. McDougal had structured the purchase of the IDC property as he did in order to avoid the investment limitation restricting direct investments in Madison Financial to 6 percent of Madison Guaranty's assets?
A. I say when I listened to it on the Senate Hearing Investigation.
Q. So you first you heard of this 6 percent limitation was this past -- you know, in the last few months?
A. I had never heard of it before.
Q. So no one ever discussed the 6 percent limitation with you --
A. No, never.
Q. -- back in 1985 or '86?

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A. Never.
Q. Never came up?
MR. COLE: And Mr. McDougal never mentioned that limitation to you when you were discussing --
A. Never mentioned it to me. Neither did anybody else.
Q. (BY MR. GIUFFRA) Now, let's turn to the Rose Law Firm. You testified that you knew -- you know Mrs. Clinton?
A. Yes.
Q. And you've known her since probably like 1975?
A. Approximately.
Q. And do you think that if Mrs. Clinton had worked with you while you were at Madison you would recall that now?
A. I don't recall her working with them.
Q. You don't recall Mrs. Clinton ever working with you while you worked at Madison Guaranty?
A. I don't recall. I know -- I've seen the billings. I don't recall any of them. I've even seen the handwritten note addressed as Seth Ward. I don't recall having received it.
Q. This is the handwritten note that Mrs. Clinton --

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A. On the beer joint.
Q. -- that Mrs. Clinton sent to you?
A. Well, I don't recall having ever received it.
Q. Do you ever recall discussing any legal research with Mrs. Clinton that Rose was performing for Madison?
A. That was -- in her billing?
Q. Yeah.
A. She never did.
Q. She never discussed it with you?
A. Never. That I would have remembered, because I knew absolutely nothing about Madison's financial structure. And if she -- and not only that, there would have been no reason for it because I wasn't an officer of the company. I wasn't a full-time employee. And as I've told you here before repeatedly, I knew nothing about their financial structure.
Q. Did you ever discuss with Mrs. Clinton anything having to do with a brewery on the Castle Grande property?
A. I remember discussions on the brewery, but not with her.
Q. Do you think you would recall having discussions with Mrs. Clinton about a brewery on the Castle Grande

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property?
A. I don't believe I discussed it with her.
Q. You don't believe you did.
A. No, I don't.
Q. You're fairly certain of that?
A. That note -- looking at that note, one might assume that I must have. But I don't remember her -- I don't remember having received the note.
Now, I'm not calling Mrs. Clinton a prevaricator. I am saying that I do not remember such a discussion. I will say that she never, ever talked to me about stock options in Madison --
MR. COLE: The stock option in Madison Bank; is that what you said?
A. Yes.
Q. (BY MR. GIUFFRA) The option on the Holman Acres property?
A. Huh?
Q. The option on the Holman Acres property?
A. I never talked to her about it.
Q. Okay. So the option agreement that was drafted which will allow you --

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A. I saw the option. I didn't know who drafted it.
MR. COLE: Why don't we show Mr. Ward that document so that it's clear for the record what we're talking -- because there are two -- there are two versions of that, Mr. Ward, and we wanted to ask you what you remember, if anything, about the two different versions?
A. I remember that they wanted an option for $400,000 and they paid me $1,000 for it.
MR. COLE: Let me -- here are two copies, and they're different -- slightly different. One is numbered SW-070 through, the last page being, 074. And the other one, if you'll let me look or let Mr. Giuffra look, is SW-063 through, the last page being, 068. And in one, the legal description on the first page -- and I won't read the entire legal description. But it carries over to the second page, and it says, "6.67 acres." In the other one, the legal description reads -- the other one being the one the first page of which is 063, reads, "Parts of Tracts 27 and 28, Holman Acres, Pulaski County, Arkansas."
Do you recall anything about the preparation of these documents?

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A. No, I do not. I do know that -- because I discussed this once before. That they -- when they prepared it, the -- I'm looking for the 6.3 acres.
MR. COLE: If you turn the page, sir, at the top you'll see the last line of the legal description says 6.66 acres.
A. On the north side of 145th Street was a building approximately 60,000 square feet. And there was a clothing company, a large company out there. And I can't recall its name, but it's a well-known company. And they had leased this building for an auxiliary warehouse.
MR. COLE: By Levi Strauss?
A. Levi Strauss. And I was shown this before. And it determined that they had the legal description of the Levi Strauss building as the 6.66 acres.
MR. COLE: And when you say "they" had the legal description as the Levi Strauss building, who is the "they" that prepared the document?
A. I don't know.
MR. COLE: Was it prepared at Madison Guaranty?
A. I don't know.

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MR. COLE: Do you recall whether Mr. Denton was involved in the preparation of this document?
A. I don't know. I would doubt that he would have been.
Q. (BY MR. GIUFFRA) And you don't recall ever discussing either of these two option agreements with Mrs. Clinton?
A. I do not.
Q. Do you think you would remember discussing these two option agreements with Mrs. Clinton had you done so? Well, you knew Mrs. Clinton, right?
A. I did know Mrs. Clinton. I do not -- I do not recall discussing it with her. Now, I may have. I'm not here to call her a prevaricator. But I will say that I do not recall.
MR. COLE: Mr. Ward, let me ask you a very basic question about these documents. This is an agreement -- an option agreement between yourself and Madison Financial Corporation; is that correct?
A. That's right.
MR. COLE: So which party prepared the agreement; did you prepare the agreement?
A. I did not prepare the agreement.

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MR. COLE: So someone on the other side?
A. Somebody on the other side of the fence did.
MR. COLE: And you don't know who?
A. And I don't know who.
MR. COLE: You don't know whether it was an employee of Madison or a --
A. I do not know.
MR. COLE: -- lawyer working for Madison, you don't know?
A. The way it's written and the way it's paged here, it's got my initials. I guess it's intended to be my initials. I don't know.
Q. (BY MR. GIUFFRA) And the reason that there are two, if I understand your testimony correctly, is that the legal description is incorrect in the document, the first page of which is 070 that refers to 6.667 --
A. That's right.
Q. That was an incorrect legal description?
A. That's right.
Q. And so the document was redone?
A. Apparently.
Q. And the property that was intended to be covered is

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the Holman Acres property that's referenced on page 063?
A. Yeah. As I said, they offered me $1,000 for the option. I don't know who -- who detected the difference. It may have been me.
Q. By, "the difference," you mean that the legal description was incorrect?
A. That's right. It could have been me or it could have been -- I don't know who it was. This was a long time ago.
Q. Let me point something else out to you, if I could, about these documents. If you look at the document in which the legal description is incorrect, showing the 6.667 --
A. Yes.
Q. -- there's a number at the bottom, a code number in the lower right corner that says, "0190G." If you look at what I believe to be the second agreement, based on your testimony, in which the property description is corrected and it refers now to the Holman Acres property on page 063. The second page -- the first and second page have no code number. And then on the third page, which is identical in appearance to the third page of the first

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document numbered 072 --
A. Looks like it was rewritten, doesn't it.
Q. It looks like the first two pages were retyped and then the pages three and on were not -- were unchanged. Does that refresh your recollection at all?
A. It doesn't refresh my recollection at all. But I agree with you, that's what it looks like.
Q. And what about the, what appears to be, initials on what I understand to be the final agreement, the one that refers to the Holman Acres property, do you -- I realize they don't copy very well. But the first two pages, the pages that were changed are initialed. Is that your initial?
A. I don't think so.
Q. The document -- the agreement is signed, if you go to the signature page. Is that your signature, "Grantor, Seth Ward?"
A. That's right.
Q. And do you recognize the signature beneath Madison Financial Corporation?
A. I think that's John Latham, I think.
Q. And then turning back to the first two pages. Is

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that your initials and Mr. -- it appears to be an "SW" and a "JL."
A. It appears to be that, yes.
Q. So, while you don't know who prepared the first draft or the first copy of this agreement, it appears that it was prepared incorrectly with an incorrect legal description. The first two pages were corrected to refer to the Holman Acres property. Those changed pages were initialed by yourself and Mr. Latham?
A. That's what it appears to be.
Q. Do you remember anything further that could --
A. No, I do.
Q. And you remember no involvement by Mrs. Clinton in the preparation of these documents?
A. I do not remember Mrs. Clinton being involved.
Q. Why don't we turn to the billing records, sir. Have you seen these Rose Law Firm billing records before?
A. Yes, I have.
Q. Okay. Let's just make sure we have it on the record. They're Bates numbered DKSN 28928 through DKSN 29043. And what I'd like you to do is we'll go through each of the pages where there's a post-it note on the right-hand

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corner and then we'll ask you whether you can recall what occurred on the page.
MR. COLE: Why don't we read the number.
Q. (BY MR. GIUFFRA) And we'll read the page as you get up to it.
All right. This first page which references you, sir -- first of all, do you have any reason to believe that these records are inaccurate?
MR. COLE: Other than the fact that you don't recall the discussions that are referenced therein.
A. I do not recall.
Q. (BY MR. GIUFFRA) I mean, you don't recall -- let's go to the first -- the first one is DKSN 28979, which is this page right here. Now, it says on -- this is a bill of the Rose Law Firm; would you agree, sir?
A. Yes.
Q. All right. Do you rcall ever seeing any bills of the Rose Law Firm --
A. No.
Q. -- when you were at Madison?
A. No.
Q. And you -- have you ever seen these documents before?

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A. I've seen similar documents. Not these. I was shown these by the -- by the --
Q. Mrs. Clinton's lawyer, Mr. Kendall?
A. I was shown it by him and also by --
Q. Independent Counsel?
A. Independent Counsel.
Q. Was that the first time you recall seeing these documents was when you saw them with the Independent Counsel?
A. Yes.
Q. And then you subsequently met with Mr. Hubbell -- I mean, with Mr. Kendall?
A. Yes.
Q. And that was after you met with the Independent Counsel?
A. After I met with Independent Counsel.
Q. On the first bill, this is 28979 --
A. I have to tell you at this point the same thing I told the Independent Counsel, as I told Mr. Kendall, I'm not familiar with -- I don't recall any of them.
Q. You don't recall any of the conversations or any of the meetings that are referenced within these bills?

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A. I don't recall any of them.
MR. COLE: But, Mr. Ward, in terms of when you saw these records or copies of these records, the first time you saw them was when you were shown them by the Independent Counsel or someone on the Independent Counsel's staff?
A. Right.
MR. COLE: Was that last month in January of this year, 1996?
A. I think it was. Yes, sir.
MR. COLE: And then you're certain that it was after that that Mr. Kendall --
A. Yes. I told Mr. Kendall -- he had the -- he opened up this briefcase and was going to show me these billings. I said, "Well, I can tell you the same thing I just finished telling the Independent Counsel, I don't recall having ever seen any of them."
Q. (BY MR. GIUFFRA) Okay. Let's focus just on what's referenced in the billing records.
Now, this first billing record, 28979, indicates that you would have spoken on 8 -- this would be August 8, 1985 with Mr. Thrash. Now, do you ever recall speaking to Mr.

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Thrash?
A. No, I do not.
Q. Do you recall speaking to -- the reference is, "Telephone conferences with Seth Ward and Charlie Cook. Make changes in documents." Do you remember Charlie Cook?
A. Now, Charlie Cook was the -- I believe he was the man -- VP or president of the -- of First Commercial Bank.
Q. So you recall speaking to Mr. Cook?
A. Remember that earlier on I told you I met with Mr. Brick Lyle, and I couldn't remember the man's name at that time, an officer of the First Commercial Bank. Well, I'm quite certain that it was Mr. Cook.
MR. COLE: And that was one of the banks that held the mortgages --
A. Yes.
MR. COLE: -- or the notes on the IDC property?
A. Yes, sir.
Q. (BY MR. GIUFFRA) Okay. Then later on down, where it's marked in yellow, on August 19, 1985 there's a meeting with Seth Ward and Ace Wilson and then Charlie Cook. Do you recall meeting with an Ace Wilson?

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A. I don't know Ace Wilson.
Q. How about -- it looks like "B-C-E Wilson," maybe. Do you recall anyone by the name of Wilson who was involved in the acquisition of the IDC property by Madison?
A. The only one I know would be Robert Wilson, who was with -- he was the executive vice president of Union National Bank.
Q. That may well be who it is. It may look like Bob Wilson. Do you remember speaking with Bob Wilson?
A. Yes, I remember meeting with Bob.
Q. Okay. He was -- this was another bank that held part of the mortgage on the IDC property?
A. Yes, three banks held the mortgage.
Q. Okay. And his bank, again, was?
A. Union.
Q. Okay. Then the next entry August 20, 1985, another telephone call with you and Mr. Thrash. You don't remember that phone call?
A. I don't remember it.
Q. But you think from the fact that you -- you do recall speaking with Mr. Wilson and you do recall speaking with Mr. Cook sometime in August of 1985?

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A. I remember talking with him, yes. Whether it was this date or not, I don't know.
MR. COLE: Before we leave this page, Mr. Ward, if you look in the upper left corner under "matter," what does it say below matter?
A. IDC.
MR. COLE: And is that what the property was known as at the time?
A. Yes, Little Rock Industrial Development Company.
MR. COLE: And in the discussions that are referenced here, the transaction would have been described at that time as the IDC property?
A. That's right.
MR. COLE: Was anyone calling it Castle Grande at that time?
A. No.
Q. (BY MR. GIUFFRA) When did you first hear anyone call the property Castle Grande?
A. Well, after McDougal acquired the property south of 145th Street. He had a development a few miles south of there called Maple Creek.
MR. COLE: That was another residential

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development?
A. It's another residential development. And he said he was going to put in a residential development, either mobile homes or pre-built homes on 145th Street. And he -- I don't know if he was talking to me or talking to somebody else. But, anyhow, that's when they mentioned it was going to be named Castle Grande.
MR. COLE: I have a question about that, because Mr. Giuffra asked you some questions about how Mr. McDougal structured the transaction and whether --
A. Who asked me the question?
MR. COLE: Mr. Giuffra, across the table from me, asked you some questions about how Mr. McDougal structured the transaction and whether you had any understanding that that was because of the 6 percent limitation on Madison's investments and you said you did not?
A. I had no knowledge of it at all.
MR. COLE: Was the structure of the transaction done in the way it was so that Mr. McDougal could develop the property south of 145th Street for residential purposes and the property that you purchased

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north of residential -- I'm sorry, north of 145th Street could be resold as industrial property; was that --
A. It would be resold anyway we can sell it.
MR. COLE: But that was the business reason behind the division of the property between north and south of 145th Street?
A. I don't think so. I think that the -- I think that he came up with that for two reasons: I felt like that he felt that that property was worth about $600,000, and that was what he said he could afford. He didn't say anything about limitation. But, also, it afforded him an opportunity to put a roadway from 145th Street south into the International Paper Company property.
MR. COLE: Which was the other property that he had an interest in?
A. Which is the property south of there which he wanted to develop but was landlocked. There were no roads going to it.
Q. (BY MR. GIUFFRA) Sir, let me show you a map that we have received.
Now, did you ever see a feasibility study that Mr. McDougal had prepared for the Castle Grande property?

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A. No.
Q. Never saw one?
A. No.
Q. Not at the time of the acquisition?
A. No.
Q. Not later?
A. No.
Q. Okay. Now, this is a map from the feasibility study showing the entire property. And at the top is the portion that you purchased, which was north of 145th Street, correct?
A. Uh-huh.
Q. And then south was the part of the property -- south of 145th Street was the portion that Mr. McDougal, through Madison Financial, purchased?
A. This 2 and 4, it's black, but it's not me.
Q. These would be separate parcels --
A. That wasn't mine.
Q. Okay. This would be parcels marked 2 and 4, which say, "Jim Guy Tucker" and "Master Developers, Inc.," that was not part of the portion that you purchased?
A. No.

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Q. Okay. The entire property all the way around, was that known as Castle Grande or just the part that Mr. McDougal --
A. Just the part that Mr. McDougal developed along here.
MR. COLE: That would be the part south of 145th Street --
A. Yes.
MR. COLE: -- where you've just pointed to?
A. Not all the property south of 145th. Just that area that he was developing.
MR. COLE: Just the area --
A. See, he was fronting the development on 145th Street. He didn't build any roads in there.
Q. (BY MR. GIUFFRA) This is where he has trailer homes?
MR. COLE: Modular homes?
Q. (BY MR. GIUFFRA) Modular homes?
A. Yes, and he didn't build any roads in any of the rest of the property. He had them facing 145th Street.
MR. COLE: And that was -- that area, if we are looking at this map, in the center just south of 145th Street is what was called Castle Grande?

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A. That's right.
MR. COLE: And that would not include this area north of 145th Street --
A. No, would not.
MR. COLE: -- that's shown as Seth Ward?
A. It would not.
MR. COLE: And where's the Holman Acres property on this map?
A. Right here (indicating).
MR. COLE: So it's in the northwest corner of --
A. Northeast.
MR. COLE: -- of the intersection between 145th Street and Highway 65 south?
A. Yes.
Q. (BY MR. GIUFFRA) Now, let's turn to the next Rose Law Firm bill, which is 28980. And this bill indicates that you spoke to Mr. Thrash, looks like September 30, '85. And was there a man named Mr. Bowen who was involved in this transaction?
A. Yes, he's part of the staff of Beach Abstract.
Q. Okay. There's a telephone conference with Mr. Bowen

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of Beach Abstract. And then there's another conference on October 7th with Mr. Thrash and yourself and then a Peggy Rogers. Was Peggy Rogers involved in this transaction?
A. I don't know Peggy Rogers.
Q. Okay. Then on the 14th there's another call between -- there's another conference between Mr. Thrash and it looks like Daryl Dover. Do you remember Mr. Dover?
A. I don't remember a Mr. Dover.
Q. You don't remember Mr. Dover. And then there's a Mr., looks like, Foolrs?
A. Who?
Q. F-o-o -- F-o-o-l-r-s, Foolrs. You don't recall a person by that name?
A. No.
Q. Then on the -- it looks to be the 7th of October --
MR. COLE: Just a moment. On the entry for the 4th, it also says, "attend closing."
Q. (BY MR. GIUFFRA) Do you remember going to closing, sir?
A. I went to the closing.
Q. Do you remember seeing Mr. Thrash at closing?
A. No. And I told you earlier, I didn't know Mr.

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Thrash. And if he were there, I probably confused him with some of the staff of Beach Abstract.
MR. COLE: Was Mr. Dover at the closing?
A. I don't know Mr. Dover.
MR. COLE: You don't Mr. Dover either. His name is shown here as well.
Q. (BY MR. GIUFFRA) Okay. The next entry, October 7, '85, says, "Meeting with Seth Ward. Review Bill of Assurances." Do you remember an issue coming up involving a Bill of Assurance?
A. It could have, but I don't remember it. I'm sorry.
Q. Do you know what a Bill of Assurance is?
A. Yes, I do.
Q. What is a Bill of Assurance?
A. Well, they place a limitation on what you can use the land for.
Q. Do you remember an issue arising concerning the placement of mobile homes on the Castle Grande property?
A. I don't, and that wouldn't have been my problem.
Q. Let me show you a document that bears Bates No. SW1-028, and it's a memo from Jim McDougal to you, dated October 7, 1985, which is the same day as this entry in

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the Rose Law Firm billing records. And this says --
MR. COLE: And just for the record, because the camera won't pick this up, these billing entries are all by Mr. Thrash that we're looking at here, including the one on October 7th.
Q. (BY MR. GIUFFRA) Correct. And it says this is from Mr. McDougal to you. And I'll read the second paragraph. "Apparently there is some opposition from existing landowners at 145th Street to the placement of mobile homes on our property. I think their opposition merely rises from ignorance as to the plans. However, we do need to check to see if there is an existing Bill of Assurance on the property which would prohibit our planned use. Further, it is my understanding that the Planning Commission's regulations require that adjoining landowners be given notice by registered mail of a planned subdivision. You should ask our engineer about this procedure."
Do you ever remember discussing any of that with Mr. McDougal or getting this memo?
A. I could have. I'm not denying I didn't. I don't remember.

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I know this much, that it was the -- the property was beyond the five mile limit.
Q. From Little Rock?
A. From Little Rock. And so it wouldn't be subject to the Planning Commission.
Q. Do you remember any discussion of a Bill of Assurance, though?
A. No. But I have to point out that this is over ten years ago.
Q. I understand, sir. Let me show you another entry. This bears Bates No. 29000. And there's an entry on August 14, 1985 by a man named Thomas. Do you remember a lawyer at the Rose Law Firm by the name of Thomas, last name Thomas?
A. No.
Q. D. Thomas, having a telephone call with you and also with Ms. Dover -- Mr. Dover's secretary; you wouldn't recall that at all?
A. I don't know Mr. Dover.
Q. Okay.
A. It may have --
Q. It may have happened, you just don't --

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A. I may have had such a conversation.
Q. Okay.
MR. COLE: What were the dates of those entries?
MR. GIUFFRA: August 14, 1985.
MR. COLE: And those were all entries by Mr. Thomas at the Rose Law Firm?
MR. GIUFFRA: Correct.
Q. (BY MR. GIUFFRA) Let's turn to page 29002. And there's an entry for Mrs. Clinton right here, which is marked in yellow, on November 26, 1985 for one hour, and it says, "Conference with Seth Ward; conference with T. Thrash; conference with Webb Hubbell."
Do you remember participating in any conference with Mrs. Clinton?
A. I do not.
Q. Do you remember ever discussing -- you did speak to Mr. Hubbell about this transaction, right?
A. If I had spoken to with Mr. Hubbell, I think I would have remembered. I do not recall.
MR. COLE: Well, let's be clear here, and particularly for your benefit, Mr. Ward. As I read this

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time entry, it does not indicate that you speak with Mr. Hubbell. It indicates that Mrs. Clinton spoke with Mr. Hubbell. These are her time records, and they show first a conference with Mr. Ward, and then there's a semicolon, they show a conference with Mr. Thrash, and then there's another semicolon and it shows a conference with Mr. Hubbell. That's three things that she recorded that took place in one hour on November 26, 1985. So there's no reason to believe that your memory is faulty, sir. These records don't show a discussion between you and Mr. Hubbell.
Does that help? Do you follow what I was pointing out to you there?
A. I appreciate your help. But I also -- I don't recall a conference with Mrs. Clinton.
Q. (BY MR. GIUFFRA) On any occasion?
A. I don't recall a conference with her on any occasion. And I'm not saying that it didn't happen. But I will say again, when there -- somewhere here there's a billing about her discussing the stock structure or --
Q. The option agreement.
MR. COLE: No, I think what Mr. Ward is

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referring to -- he said this earlier, and there may be some confusion about this. Perhaps we should try to clear it up and find the entry.
Q. (BY MR. GIUFFRA) You mean the preferred stock?
A. Yes.
MR. COLE: That's what I understood him to be saying. I'm not aware --
Q. (BY MR. GIUFFRA) Do you recall any discussion with anyone, while you were at Madison, of Madison's proposal to issue preferred stock?
A. Never.
Q. Okay, sir. The billing records, in fact, don't indicate that you spoke to Mrs. Clinton about preferred stock offering?
MR. COLE: Not to my knowledge. That's the question I had. Because he seems to believe that there's an entry in here that indicates he spoke to Mrs. Clinton about this.
A. Well, I saw one where it said that she spoke to me.
Q. (BY MR. GIUFFRA) There's an entry, in fact, the page we just looked at bearing Bates No. 29002, the time is billed to stock offering matter, but -- so perhaps that's

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the source of the confusion. Right up here, sir --
A. I saw that. I was looking for a number. Because it seems to me like I remember seeing an itemized bill where it was discussed.
Q. But you don't recall ever speaking to Mrs. Clinton about the preferred stock offer?
A. No, I did not.
Q. Let's turn to another entry on the billing records. This is dated 29 -- this is Bates No. 29006. There's an entry on December 26, 1985, right after Christmas, half hour, it says, "Conference with Seth Ward," then it has, "telephone conference with Election Commission."
No recollection of speaking to Mrs. Clinton the day after Christmas in 19 --
A. No, I don't. And I'd like to make a comment here, if I might.
MR. COLE: You certainly may.
A. Well, I've been shown this before, and I asked, "What Election Commission are they talking about?" Well, it seems that south of 145th Street there was a shell building; that is, just the upright columns and a roof, no floor, no sidewalk. It was just an unfinished building.

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One afternoon when I went into the office, McDougal was in one of the lower offices downstairs visiting with a friend of his. And he called me back and said, "I'd like you to meet" so and so, I forget his first name, "Lyons."
Q. (BY MR. GIUFFRA) Bill Lyon?
A. I don't remember his first name, but his name was Lyons. And he said, "What do you think of having a brewery in that shell building?" Well, what in the world would I think, one way or the other. If they want to have a brewery in that shell building, I could care less. And he said that, "Mr. Lyon already has a brewery." And I said, "Where?" And he said, "In a warehouse down here on Cantrell Road." I couldn't imagine a brewery being down there. He said, "We're thinking of putting it -- moving it out here in that shell building and having a brewery and tavern." And he, again, asked me what I thought. I said, "I don't know." It wasn't my property. Well, that afternoon, as I went home, I got curious. I just couldn't believe that there was a brewery down -- and a warehouse off of Cantrell. And I stopped where he -- by the way, I'll interrupt myself. He asked me if I'd show him that building and I did. And that's when he explained to me

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where the brewery was.
MR. COLE: So you did show Mr. Lyon the building?
A. I showed Mr. Lyon the shell building. And driving home I went by the warehouse and went in. And sure enough, there was a brewery in there. It wasn't very much space. I would say 30 feet by 60 feet. It had a bunch of tanks and what not in there and white plastic pipe. They were making beer. I asked him, "What was the name of the beer?" It didn't have a name. "Well, where did he sell it?" He said, "Well, he sold it at taverns. They used it as house beer."
Well, I do recall later on, maybe a week or two weeks or three, whatever, I saw McDougal. I said, "Whatever happened to your brewery deal?" He said, "Well, the water wasn't any good out here."
On that Election Commission, I was told that the area where that shell building was located was once in another county and that county has since been absorbed into Pulaski County. But while it was in a previous county, they held an election whether they wanted to be wet or dry and they voted it dry. And --

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MR. COLE: So there was a legal issue as to whether or not that location was wet or dry?
A. And I have later received a handwritten note from Hillary Clinton saying that they could have a brewery there. And if I received it, fine. I didn't remember seeing it, but it was addressed to me. I must have received it and passed it on to Bill Clinton. I mean, to --
Q. (BY MR. GIUFFRA) Jim McDougal?
A. -- Jim McDougal. So that's my involvement with the -- and to the full extent of me and the so-called brewery and this Election Commission. I don't recall ever discussing --
Q. The brewery with Mrs. Clinton?
A. No, I do not. I must have, because she gave me that -- she gave me that handwritten note, and it was addressed to Seth. And I had forgotten it, and I still don't remember getting it, but I must have. And I passed it on to -- and if I did, I passed it on to Jim McDougal.
Q. All right. Let's turn to the next entry --
MR. COLE: Let's go off the record for a moment, and maybe see if we can find the document that Mr.

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Ward is referring to.
(Off-the-record.)
Q. (BY MR. GIUFFRA) Mr. Ward, we haven't been able to locate the handwritten note, other than the document that Mr. Cole showed you, which says, "Rick, I visited with Seth Ward and gave him a copy of your memo and with Ken Shemin. Thanks, Hillary."
MR. COLE: And at the bottom it says?
Q. (BY MR. GIUFFRA) "Charge Madison Guaranty, IDC." There's another document which we have, which is Bates numbered 90. It's a memo from Jim McDougal to Jim Guy Tucker, dated February 7, 1986, which says, "It looks like our township is dry. Attached is a legal opinion Seth got from his attorney."
A. You just showed me that.
Q. Yeah.
A. I think that that refers to the handwritten note that I said Mrs. Clinton gave to me. I don't remember -- I don't remember receiving the handwritten note, but I must have gotten it. And if I did, I passed it on to Jim McDougal.
MR. COLE: And with regard to the other

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handwritten note that Mr. Giuffra just showed you where it says -- written by Mrs. Clinton, that says, "Rick, I visited with Seth Ward and gave him a copy of your memo." You don't recall talking with Mrs. Clinton about --

A. No, I don't.

MR. COLE: -- any legal work she did?

A. No, I do not.

Q. (BY MR. GIUFFRA) Let me show you another document, which bear the Bates No. 90, then it goes -- it ends at RLF 2298. It's a memo from Richard Donovan to Hillary Clinton, dated January 3, 1986, and the "re" is "Madison Guaranty Savings & Loan, Wet/Dry Issue." Do you remember getting a long memo like that, a long, legal memo?

A. No, I don't remember. I don't know Richard Donovan. I'm sorry. I'd like to be able to help you.

MR. COLE: You're doing fine.

Q. (BY MR. GIUFFRA) Let's turn to the next entry. This is a -- we have a -- on November 14, 1985, we have a half hour call between Mrs. Clinton and yourself regarding purchase from Brick Lyle.

MR. COLE: What page are you on, Mr. Giuffra?

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MR. GIUFFRA: I'm at 29008.

Q. (BY MR. GIUFFRA) Do you recall that conversation?

A. I don't recall the conversation. I purchased the -- I negotiated with Brick Lyle and Mr. Cook and --

Q. So you think --

A. Which we discussed earlier.

Q. Is it possible you might have spoken to Mrs. Clinton about the actual purchase of the property from Brick Lyle, looking at this billing entry?

A. It's possible. I don't remember.

MR. COLE: Let's take a moment to focus on the date of the entry, Mr. Ward. The date of that entry is November 14, 1985. Do you see where I'm pointing there?

A. Yes.

MR. COLE: And your purchase closed on October 4, 1985, from the documents that we showed you previously; is that correct?

A. Yes.

MR. COLE: And if you read this, it says, "Conference with Seth Ward regarding purchase from Brick Lyle." Is it also possible that this entry is just

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describing a discussion that Mrs. Clinton had with you about what you had done on October 4th; that is, the property you had previously purchased?
A. I'd say anything it possible.
MR. COLE: I thought you might say that.
Q. (BY MR. GIUFFRA) All right. Mr. Ward, let's look at the next entry. That's November 20, 1985. Mrs. Clinton bills an hour.
MR. COLE: Same page.
Q. (BY MR. GIUFFRA) And it says, "Conference with S. Ward: Conference with Webb Hubbell." Again, you don't recall that conversation?
A. No, sir. I do not.
Q. And you don't recall ever meeting with Mrs. Clinton and yourself and Mr. Hubbell to discuss this transaction?
A. I never met with Webb Hubbell at any time during that deal.
Q. Let's turn to the next one.
MR. COLE: What was the date on the memorandum that you showed Mr. Ward a moment ago?
MR. GIUFFRA: January 3.
MR. COLE: January 3, 1986?

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MR. GIUFFRA: Yes.
MR. COLE: It was about the entries that we were just looking at. So it was about six weeks later.
Q. (BY MR. GIUFFRA) Mr. Ward, this is a bill of the Rose Law Firm that's dated January 30, 1986, and it describes some legal services that were rendered by the Rose Law Firm in connection with the IDC transaction. And it says, "Review contract for sale." That's the very first entry.
Now, there was a contract for sale that was prepared in connection with this acquisition, correct?
A. There must have been.
Q. And then it says, "Telephone conference with Seth Ward and Charlie Cook and Daryl Dover --"
A. And Bob Wilson.
Q. It says, "Alton Bowen at Beach Abstract."
A. Yes.
Q. Peggy Rogers?
A. I don't know her.
Q. How about Steve Wade?
A. Who?
Q. Steve Wade.

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A. I don't know him.
Q. Okay. And then it says -- did you ever attend an IDC board meeting yourself?
A. No.
Q. Okay. And then they talk about a Title Commitment. There must have been a Title Commitment. It says, "Review Title Commitment." Do you recall seeing a Title Commitment?
A. No.
Q. And you did attend the closing, but you don't recall anybody from the Rose Law Firm being present at the closing?
A. There apparently was and I didn't recognize them.
Q. Okay. Then further on in the bill, it says, "Meeting for Seth Ward, Bob Wilson and Charlie Cook." But you don't recall meeting with anybody from the Rose Law Firm?
A. I don't recall.
Q. Okay.
A. I'd like to point out again that this is -- you know, this is nearly ten and a half years ago.
Q. That's the difficulty we're having, sir.
Then it says, "Research on what approvals, permits,

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et cetera are necessary to operate a sewer and water facilities." Do you recall an issue coming up --
A. Where are you now?
Q. "Research on what approvals, permits, et cetera are necessary to operate sewer and water facilities." Do you recall that coming up, an issue about operating sewer and water facilities?
A. No, I do not. I do recall that I met with Everett Tucker and his secretary, and I don't know her name, after we had purchased the property giving me a -- I think it was on a state form where the IDC assumed the obligation to provide service to all the people on their lines and what not. And that we would have to assume that responsibility. And he signed that over to me. And when we -- when McDougal sold it to Jim Guy Tucker, I made sure that Jim Guy Tucker got the same deal and relieved us from it. Now, that's the only thing I remember about the sewer and waterworks.
Q. Let me show you --
MR. COLE: Could I ask Mr. --
MR. GIUFFRA: Sure.
MR. COLE: -- Ward one more question about

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this document, because I think it may shed light on a question you previously asked him.

Mr. Ward, if you look a couple of lines down farther, and this is the bill that was sent by the Rose Law Firm to Madison Guaranty Savings & Loan for legal services rendered through January 31st, and it says, "Matter No. 5, IDC." And if you look in the description of the services, there's an entry that says, "Conferences with Seth Ward regarding purchase from Brick Lyle and proposed industry development on site." And if you bear with me, turn back two pages to the entry that Mr. Giuffra previously asked you about, where it says, "Conference with Seth Ward regarding purchase from Brick Lyle," and Mrs. Clinton billed a half hour. That was her description. That time entry which is in Mrs. Clinton's time record appears to match what's in the bill that was sent to Madison Guaranty, excepet when the bill was prepared, presumably by Mrs. Clinton as the billing partner, she added the words, "regarding proposed industrial development on site." Does that help refresh your memory as to whether you might have spoken about industrial development versus the original purchase?

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A. It doesn't refresh my memory at all.
Q. (BY MR. GIUFFRA) Let's turn to the next page, sir. This is 29011. And this page indicates that you spoke with Mrs. Clinton between December 6, 1985 and December 24, 1985 on one, two, three, four, five, seven occasions. Do you recall any of those conversations with Mrs. Clinton between --
A. I'm not playing games with you.
Q. I understand.
A. I don't recall any of them.
Q. Now, Mrs. Clinton was someone you knew well, though, in 1985?
A. Yes, I knew her well.
Q. She was someone whose legal abilities you had high regard for?
A. Well, she was the attorney for our Airport Commission.
Q. Did you used to meet with her on a regular basis when she was --
A. At the Airport.
Q. -- at the Airport Commission? Do you think that if you had spoken to Mrs. Clinton on seven different

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occasions in a little over two and a half weeks you would recall it today?

MR. COLE: These are telephone discussions, according to time records, not face to face meetings, Mr. Ward. If you note, they all say telephone discussions.

A. You know, you'd think so. But I have to -- I have to be honest with you, I don't remember.

Q. (BY MR. GIUFFRA) Okay. Let's turn to another entry. All right. This one is 29016. And on February 28, 1986, there's a call for little under an hour with you, Mr. Ward. Do you recall that?

A. Well, it says, "Seth Ward." I don't recall it.

Q. Now, Mr. Ward --

A. I noticed in the next item she's talking about a telephone conversation with Jane Dickey regarding port.

Q. Do you know what that might refer to?

A. I would think the Little Rock -- Arkansas Riverport.

Q. Was there any connection between the IDC property and the riverport?

A. No.

Q. And was the riverport something that the Airport

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Commission dealt with?

A. No. But --

Q. Do you think maybe this is a mistake in the bill?

A. I don't think it --

Q. There was no port, though, in the IDC property?

A. Is this part of -- billed to Madison?

MR. COLE: No. That's a time record. It's not part of a bill. You would have to compare this attorney time record to the bill to see if that time was billed.

A. Jane Dickey was more of a bonding counsel. And I would imagine they were talking about bonding activity at the Little Rock Port. I would imagine.

MR. GIUFFRA: Could we go off the record just for one second.

(Off-the-record.)

Q. (BY MR. GIUFFRA) Mr. Ward, do you recall when the Castle Water and Sewer transaction closed?

A. No, but it would have been --

Q. Would it have been in February of --

A. You mean, when we purchased it?

Q. No. When you sold it to Mr. Tucker's group?

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A. Well, now, I didn't sell it Mr. Tucker.
Q. When Mr. McDougal --
A. Mr. McDougal transferred it over to Madison Financial and he sold it to Tucker.
Q. Do you recall when the $1.15 million note that you had outstanding was fully paid? Do you recall that? Let me show you a chronology, which bears Bates No. 2120003171 --
MR. COLE: This is something else.
Q. -- which says, "Castle Grande Transaction, Seth Ward and 145th Street." And it indicates that on February 28, 1986, Castle Grande Sewer and Water buys the assets from Madison Financial Corporation. You don't recall whether it happened on February 28th?
A. Well, I don't understand it when it said, "Castle Sewer and Water buys the assets from Madison Financial."
Q. Does that refresh your recollection that the transaction occurred?
A. I wouldn't have been part of that transaction.
MR. COLE: Did you deed -- the properties that you held north of 145th Street and the utility properties that were on both sides in the transactions

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which they were sold then to third-parties, did you deed the properties to Madison Financial --
A. Yes.
MR. COLE: -- so that Madison Financial could sell them to the third-party?
A. That's right.
MR. COLE: And that -- may that be the explanation for why this entry reads, "Castle Sewer and Water buys assets from Madison Financial?" That would be consistent with your having deeded the property to Madison Financial at the time --
A. That's right.
MR. COLE: -- it was sold; is that right?
Q. (BY MR. GIUFFRA) That was an important transaction, wasn't it?
A. What?
Q. The transaction whereby Castle Sewer and Water Company bought the assets of the utility from Madison Financial, that was an important transaction in the course of --
A. Yes, but I don't understand the -- the -- how that came about. Seems to me like they were selling

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waterworks. I didn't think waterworks would be buying anything.
Q. Let me show you another document. This says, "Pat Black, Exhibit 3," it's dated 2-5-96. This is a document that someone from the RTC Inspector General's Office prepared. It's a chronology. This chronology says that, "On February 28, 1986, Castle Water and Sewer closes: All IDC gone except Holman Acres; $1.15 Ward note paid." "W note paid," but Ward note paid. Do you recall these events occurring on February 28, 1986, approximately?
A. I'm sorry.
Q. Okay. But on the same date, February 28, 1986, you have this -- the billing record indicates you spoke with Mrs. Clinton. Do you know whether you might have spoken to Mrs. Clinton about either the closing of the Castle Water and Sewer transaction or the payment of your note?
A. I have no idea at this point. I'm sorry. I do not recollect.
Q. Okay. So you don't know no one way or the other --
A. Well, I --
Q. -- whether you might have spoken --
A. I can't help you on it.

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Q. Okay. Let's turn to the next page, which is 29024. This is a telephone conference that Mrs. Clinton had on April 7, 1986 with Mr. Denton.
Now, what was Mr. Denton's role in the IDC transaction?
A. I don't think he was -- had a role. He was the chief loan officer.
Q. Some of the loans you had, Mr. Denton acted as the loan officer on?
A. That's right.
Q. Okay. So he would have been aware of the loans that you had with Madison Guaranty?
A. Yeah.
Q. He would have handled the paperwork for you?
A. He handled the notes on all of them, I think.
MR. COLE: Which notes are you referring to, Mr. Ward?
A. Well, I don't know. I would think he prepared the note for the purchase of the property.
MR. COLE: For the initial purchase?
A. I would think that he --
MR. COLE: The note that I previously

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showed you, the Promissory -- Non-Recourse Promissory Note?
A. Yes. And I purchased -- I made a couple of personal loans at Madison while I was there and he prepared the notes.
Q. (BY MR. GIUFFRA) Okay. Mr. Ward, let's try one more entry, this is the -- two more to go. This one and another one. This is on May 1, 1986, Mrs. Clinton bills two hours, and it says, "Conference with Seth Ward; teleconference with Seth Ward regarding option; telephone conference with Mike Schauffler; and then prepare option." And Schauffler is spelled S-c-h-a-u-f-f-l-e-r. Do you recall any of this legal services being provided to you or to Madison Financial by Mrs. Clinton?
A. I do not. I'm not saying it didn't, but I do not recall.
Q. The date of the option is May 1st, which is the same day --
A. Mike Schauffler was my accountant at that time.
Q. Do you recall discussing the option with Mr. Schauffler?
A. I do not recall discussing the option with Mike

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Schauffler.
Q. You don't recall discussing the option with Mrs. Clinton?
A. I do not recall.
Q. But the option was dated the same date as this billing entry?
A. I don't recall.
Q. Okay. Let's look at --
A. I'm not --
Q. It could have, but you just don't remember?
A. It could have happened, but I don't remember. And I'm not trying to appear uncooperative with you.
Q. I understand. The last one is June 10, 1986, a little bit under a half hour, Mrs. Clinton bills to the general matter of Madison Guaranty, it says, "Telephone conference with R. Massey; conference with S. Ward."
MR. COLE: What's the Bates number on that document?
MR. GIIUFFRA: That's 29032.
Q. (BY MR. GIUFFRA) Again, you don't recall that conversation?
A. No.

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Q. Now, we've identified 15 instances in these billing records where you had either a conference -- at least according to the billing records, a conference or a telephone call with Hillary Rodham Clinton. You don't recall any of those conferences or telephone calls?
A. I do not recall any of them.
Q. And do you think that if they had occurred you would recall them? Given that it's -- you know, 15 is not a small number.
A. Well, time and my physical condition certainly hasn't enhanced my memory. I'd like to think that my memory is better than it is.
MR. COLE: But, to be fair, Mr. -- to you, Mr. Ward, these were a few telephone calls and meetings that took place 10 and 11 years ago over a period of several months.
A. I do not recall. I'm sorry.
MR. COLE: And just as when we previously showed you a note that Mrs. Clinton had written that said, "Rick, I visited with Seth Ward and gave him a copy of your memorandum," you didn't recall that, even though this document indicates that you had a meeting?

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A. No. I did tell you that I got a -- I remember getting a handwritten note from Hillary saying that they -- that they could go ahead with the beer joint, if that's what you want to call it.
Q. (BY MR. GIUFFRA) Do you recall that back in 1985 or '86 or do you recall that after being shown it --
A. I recall being shown it here.
Q. -- the last few years?
A. Well, they showed it to me at the grand jury.
MR. COLE: I'm sorry. I want to be sure I'm understanding you. Are you saying that you remember that happening?
A. No, I do not remember that happening. I saw the note, and it was addressed to me, handwritten. But I do not remember it at all. But I also said I must have received it because it was addressed to me.
And by that memorandum you showed earlier to McDougal to Jim Tucker, I apparently had given it to -- passed it on to McDougal.
MR. COLE: Let me ask you this. During the time you were employed at Madison and working with Mr. McDougal, were you -- did you have any role in the work

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that was done by outside law firms for Madison Guaranty?
A. No.
MR. COLE: So it was not part of your normal responsibility to deal with lawyers?
A. None of my activity at all. I had no -- I didn't have any -- any reason to be involved in any -- such activity.
MR. COLE: Do you recall whether you ever received questions about matters like the location of properties or aspects of the transaction at IDC from outside lawyers?
A. No.
MR. COLE: You just don't recall any recollection?
A. No.
MR. GIUFFRA: Maybe now is a good time to take a break.
MR. COLE: Yeah, I think so.
(A recess was had.)
Q. (BY MR. GIUFFRA) Mr. Ward, do you recall whether anyone -- any lawyer represented you in connection with the various transactions surrounding IDC/Castle Grande?

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A. No.
Q. You don't think you had legal counsel?
A. No, I didn't need it.
Q. Do you think that you may have relied on the same lawyers that worked for Madison Guaranty, if you relied on lawyers at all?
A. I don't think I relied on lawyers at all.
Q. And you don't think that Mrs. Clinton performed any legal services for you?
A. She may have, but not that I can recall.
Q. Now, Mrs. Clinton was the attorney for the Little Rock Airport Commission?
A. Yes, sir.
Q. How frequently would you meet with Mrs. Clinton in connection with the Little Rock Airport Commission?
A. Once a month.
MR. GIUFFRA: Can we go off the record.
(Off-the-record.)
Q. (BY MR. GIUFFRA) Let me show you a document, which bears Bates number SEN 32695 through 97. It's a letter from Seth Ward to Jim McDougal, dated September 24, 1985. Is it your best recollection that you drafted this

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document?
A. Yes. That was part of the agreement, the verbal agreement we had made.
Q. But you think that you were the one that actually drafted this on a legal pad?
A. Which one are you talking about?
Q. The September 24, 1985 letter. You think you were the draftsman of this letter?
A. I know I was.
Q. Why do you know you drafted this letter?
A. Because I wrote it out in longhand.
Q. There's a legal description contained on page SEN 32697. Do you think you would have drafted this legal description?
A. No.
Q. It was copied out of another document?
A. It must have been.
Q. In the course of your work as a businessman, prior to coming to Madison Guaranty, did you draft legal agreements on occasion?
A. Well, as a businessman, I might have.
Q. You've reviewed legal agreements on a number of

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occasions?
A. Yes.
Q. Mr. Hubbell did not help you prepare this document dated September 24, 1985?
A. I wrote it out myself.
Q. And he did not review it?
A. No. I told you earlier he wouldn't help me on it.
Q. Because he said that the Rose Law Firm was representing Madison?
A. That's right.
Q. Did he say anything more to you about what kind of legal services the Rose Law Firm was providing to Madison?
A. No.
Q. Have you ever discussed this September 24, 1985 agreement with Mr. Hubbell?
A. I don't think I did.
Q. Since then, in the last three or four years, have you ever discussed it with him?
A. I don't recall.
Q. And you don't believe that Mrs. Clinton drafted the September 24, '85 letter?
A. No, I don't think so.

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Q. Do you think she ever reviewed it?
A. This?
Q. Yes, the September 24, 1985 letter.
A. I don't think she did.
Q. Okay. But you can't be sure one way or the other?
A. If I was shooting craps -- of course, I don't know why she would have seen it.
Q. Now, with regard to the investment limitation that applied to Madison Guaranty, that 6 percent direct investment rule.
A. What about it?
Q. When was the first time you learned of the existence of this 6 percent limitation on how much Madison Guaranty could invest in Madison Financial?
A. When I was listening to the Senate hearings.
Q. So you don't recall ever hearing about it during 1985?
A. Absolutely not.
Q. At Madison Guaranty when you and Mr. McDougal discussed the entire property that you purchased from IDC, was it referred to as IDC or Castle Grande?
A. It was referred to as IDC.

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Q. Now, with regard to the Rose Law Firm billing records that I showed you previously that were found at the White House, do you have any reason to doubt the accuracy of those records?
A. I have no reason to doubt it.
Q. You just don't recall any of the meetings or telephone calls that are specified in those?
A. I don't recall the conversation.
Q. Now, you recall the May 1 Option Agreement that was involving Holman Acres allowing Madison to purchase Holman Acres?
A. Yeah, we discussed it a minute ago.
Q. Yes. Was that an important piece of evidence at the trial of the "Ward versus Madison" case?
A. I can't honestly tell you if it was or not. I don't know.
MR. COLE: Did you view that Option Agreement as having anything to do with the commissions that you felt you were owed by Madison?
A. No. They paid me $1,000 for that option.
MR. COLE: They wanted to buy the property. So they paid you $1,000 for an option on it?

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A. That's right.
Q. (BY MR. GIUFFRA) Do you recall Mr. Latham testifying at the trial in "Ward versus Madison" that Madison was going to pay you your commissions by exercising the option and purchasing Holman Acres for $400,000?
A. Yeah, I recall that.
Q. That's not your understanding of what happened?
A. No, it wasn't.
Q. And again, why do you think Mr. Latham's testimony is wrong?
A. Because that's not the way it was.
Q. And why was this not the way it was?
A. I guess because they were trying to win their trial.
MR. COLE: And who did the jury find for?
A. They found for me.
Q. Did Mr. Hubbell have anything to do with the case of "Ward versus Madison?"
A. No.
Q. Did he attend the trial?
A. He came up there when the trial was over at 5 o'clock to see how it was coming along as my son-in-law. He wasn't participating. He just dropped by to see how it

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was going.
Q. Did he review any legal documents?
A. No, he did not review any legal documents.
Q. Since the discovery of the billing records at the White House, do you recall reading about that in the newspaper?
A. Yeah, I read about it in the newspaper, television, Senate Hearings.
Q. Did you meet with Alston Jennings and Mr. Kendall to discuss those billing records in January of this year?
A. I met with them.
Q. Where did the meeting take place?
A. In Alston's office.
Q. And about how long was the meeting with Mr. Kendall?
A. I don't know. I'd say 30 or 40 minutes.
Q. And what do you recall telling Mr. Kendall?
A. I recall telling him just about the same thing I told you. That I had already seen the record. They were shown to me by Mr. Starr's investigator either that morning or the day before. And that I would have to tell him the same thing that I told Mr. Starr's investigator, that I didn't recall seeing it. I couldn't recall any of it.

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Q. Did Mr. Kendall show you Mrs. Clinton's billing records?
A. He started to. Maybe he did. But I told him I had already seen them.
Q. Do you know a man named David Hale?
A. No. I know who he is. He's been in the newspaper enough.
Q. Did Mr. McDougal ever discuss David Hale in your presence while you worked at Madison Guaranty?
A. Never.
Q. Do you know whether Governor Clinton ever visited Mr. McDougal's office?
A. If he did, I didn't see it.
Q. Do you recall writing a letter or letters to Senators Bumpers and Pryor?
A. I sure do.
Q. And what do you recall about letters you wrote to Senators Bumpers and Pryor?
A. I was complaining about what I thought was the sad treatment I'd gotten from the RTC.
Q. And did Senator Bumpers or Senator Pryor take any action in response to your letter?

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A. Yes, they sent the letter to the RTC's office in Kansas City. And I think a fellow by the name of Knight replied saying that I was the main cause of Madison's failure. And --
(Interruption.)
Q. Let's go off the record for a second.
(Off-the-record.)
Q. Do you want to finish answering the last question before we had an interruption?
A. Yes, sir. Mr. Knight replied to the Senators that I was the cause of Madison's failure, or at least a major contributor to it. But then he released a letter to the press, and two days later "The Wall Street Journal" called me up and wrote a big article on it. Which, in my opinion, not only was not so, but I thought it was -- I've held Mr. Knight in an extremely low opinion ever since.
Q. You don't feel he treated you very fairly?
A. No.
Q. Did you ever discuss the fact that you had sent letters to Senators Pryor and Bumpers with Webb Hubbell?
A. I don't recall.
Q. Did you send copies of the letters to Mr. Hubbell?

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A. No.
Q. Did Mr. Hubbell ever discuss with you that the Rose Law Firm was representing the RTC in connection with its suit against Frost & Company, an accounting firm here in Little Rock?
A. He didn't discuss it with me.
MR. GIUFFRA: Let's go off the record for a second.
(Off-the-record.)
Q. (BY MR. GIUFFRA) Back in 1985 and 1986, do you recall speaking with any lawyers about water issues in the project?
A. No, sir.
Q. Do you recall discussions with anyone concerning the delivery of water services off-site, off the IDC property?
A. Well, there was a small housing project immediately south of the IDC property facing Highway 65. And it was supplied water by the IDC property.
Q. Do you recall discussing the supply of water to that property south of the IDC property with anyone?
A. I don't recall it.
Q. Do you recall discussing that with any lawyers?

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A. Not with any lawyers.
Q. You're fairly certain you didn't discuss the delivery of any water south of the IDC project with any lawyers?
A. I don't recall.
Q. When you worked at Madison Guaranty in 1985 and 1986, were you someone who usually was responsible for dealing with lawyers on legal issues?
A. No. I wasn't involved with lawyers.
Q. You were primarily involved with trying to structure transactions with other businessmen?
A. I was trying to find property for him to buy.
Q. So you were driving around in your car looking for property?
A. That's right. That was on a part-time basis.
Q. About how many hours a week would you generally work for Madison back in '85 and '86?
A. Well, I'd say, in '85, I might have been averaging maybe three or four hours a week. In '86, I'd say I was averaging quite a bit more.
Q. Would you say maybe 10 or 15 hours a week?
A. I don't know, but I imagine certainly that much.
Q. Who was the person at Madison Guaranty, as best you

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can recall, who dealt primarily with lawyers?
A. I can't answer that. I told you earlier on that they had a lawyer on the Board of Directors named Steve Cuffman. He was down there a lot. And I thought he was their lawyer.
Q. Have you ever spoken with anyone at the White House about the IDC/Castle Grande transactions?
A. No.
Q. You've never spoken to Bruce Lindsey about those transactions?
A. No.
Q. Did you ever speak to anyone during the 1992 Clinton campaign about those transactions?
A. No.
Q. Have you discussed since -- since January 1, 1992, have you discussed the IDC/Castle Grande project with Webb Hubbell?
A. No.
MR. GIUFFRA: Let's go off the record one more time.
(Off-the-record.)
Q. (BY MR. GIUFFRA) Mr. Ward, during the course of

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preparing the agreement providing for the sale of the IDC property to Madison and yourself, do you remember any discussion of an assignment clause that would allow Madison Financial to assign part of its rights in the property to you?
A. I don't recall.
Q. You don't recall any discussion about the need to add an assignment clause that would allow Madison Financial to assign its rights in the property to you during the course of the drafting process?
A. I don't recall.
MR. GIUFFRA: Let's go off the record.
(Off-the-record.)
Q. (BY MR. GIUFFRA) Mr. Ward, do you recall back in 1986 when federal bank examiners came into Madison to do an examination?
A. I do.
Q. What do you recall about that process or that examination?
A. Well, it's hard to recall anything, because I remember they took over McDougal's office. And if you were to say hello to them they wouldn't answer you. They

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spent an awful lot of time researching. And if they had just asked any of the people that were around, they could have found out what they were looking for a lot sooner, a lot easier. But apparently they didn't want to talk to anybody.
Q. So the bank examiners never spoke to you?
A. No. They didn't speak to anybody.
MR. COLE: Would you have spoken to them if they had asked to speak to you?
A. I would have been polite.
Q. (BY MR. GIUFFRA) Did Mr. McDougal or Mr. Latham indicate to you in any way that they were concerned about the bank examiners conducting an examination of Madison back in 1986?
A. No.
Q. Did you have any understanding that they were not being cooperative with the bank examiners?
A. I had no earthly way of knowing.
Q. Did they ever discuss with you how the examination was coming along?
A. No.
Q. Just one final bit of questions. With regard to the

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Holman Acres parcel, it's your testimony this was additional compensation to you above the commissions that you were owed; is that right?
A. No, that's not my testimony.
Q. What is your testimony?
A. I said I excluded the property from our agreement.
Q. So you excluded it from the parcel that you had optioned back?
A. I excluded it from my agreement, because it had too much of a potential for a shopping center area.
Q. And so the property that you purchased for $1.15 million --
A. Included that.
Q. -- included that. But the Option Agreement that you gave to Madison, you purposefully excluded Holman Acres, because you thought it had a lot of potential?
A. I wanted to develop it myself.
Q. So the litigation in the "Ward versus Madison" case concerned whether the 22.5 Holman Acres parcel represented your commissions or whether you were owed the money in addition to the 22.5 acres?
A. They wanted -- when they loaned me actually $400,000

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reduced back to $300,000, that was collateralized by Holman Acres. And when McDougal -- when I saw that the road wasn't coming through, and I saw that McDougal wasn't going to build the houses they had talked about building, I sent them back the deed and they accepted it, which offset the note of $300,000. The note originally was for $400,000, I told you. So that meant, in effect, they bought my property for $300,000. But they still owed me my commissions.

Q. Mr. Ward, did you ever put up any money in connection with the IDC transaction that you were involved with?

A. No. I offered to.

Q. Did you ever assume any risk in connection with those transactions?

A. No, but I offered to.

Q. You made the offer to Mr. McDougal?

A. Sure. I told him I would arrange my own financing.

Q. And he said you didn't need to?

A. Didn't need to. That they would do it. As a matter of fact, it was such a good deal, they could do it on a non-recourse note.

Q. What risk did you assume in connection with the IDC

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transactions in which you were a party?

A. I don't think that I was -- got involved in this business that had too much risk.

Q. So you, in fact, didn't bear any risk; isn't that right?

A. Well, in effect, that's what it amounted to. But that's not the way I had planned it.

Q. But you were offered a transaction that was basically risk free to you by Mr. McDougal?

A. Yeah, and I took that. And you would have too.

Q. And you also earned almost $400,000 in commissions, correct?

A. No.

Q. The answer would be yes?

A. I said no.

Q. You did not get the $400,000?

A. I earned it, but I never got it until I went to court.

Q. And you also received the option payment for $35,000, right?

A. That's right. And that should answer your question a whole lot right there. The property was mine. The fact

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that they wanted to finance it was all right with me. But for them to sell my property, I charged them $35,000 for that option to sell my property. But then it wasn't exclusive. I could sell it first or they could sell it.
Q. But since they were financing the purchase by you at 100 percent, why do you think they needed you to be the person who owned the property?
A. Why did they think what?
Q. Why did they need you to be the person who owned the property if they were going to finance it at 100 percent?
A. I'm not sure I'm understanding your question.
Q. Okay. Madison Financial financed the property, your acquisition of this property 100 percent, right?
A. Yes.
Q. Why did they have you in there as a purchaser of the north part of the property if they were financing it at 100 percent?
A. I do not know.
Q. Did you ever ask yourself that question back in 1985?
A. No. The only thing I can say is what I told you before. I was going to buy the property myself, all of it. And I ran it by Jim McDougal, because I was drawing

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$25,000 a year salary. He said, "Well, at that price, maybe you would share it with us."
Q. You testified originally that you did not have to -- that you felt because you were being paid by Madison, that Madison had a right to the entire IDC property because you were their --
A. No, I didn't testify to that.
Q. Do you think you could have just taken the whole property yourself and not given Madison an opportunity to buy it?
A. Yes, I could. But I felt honor-bound to at least notify McDougal, because I was drawing $25,000 a year from him. He had already turned it down.
Q. Now, in order to earn the $35,000 option payment, what did you do to earn that payment?
A. I gave him an option to sell my property.
Q. But you were giving him an option to buy the property from you, but the purchase of the property by you was 100 percent financed by Madison?
A. He's the one that arranged the financing. I didn't. I want that clear. I charged him $35,000 if he wanted to sell any of my property. That was the option.

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Q. And it's your testimony that no one ever indicated to you that they needed to structure the transaction with you buying the north portion of the IDC property and Madison buying the south portion in order to evade any kind of banking regulations?
A. I didn't know of any such banking regulations.
Q. No one ever raised the question?
A. Nobody ever mentioned it.
Q. You basically thought this was a good deal and Mr. McDougal made it a better deal for you?
A. I thought it was a good deal. He didn't make it any better.
Q. By offering you the non-recourse 100 percent financing?
A. Well, I wouldn't turn down the non-recourse note. I'd be foolish if I turned it down. But I would have bought the property with or without his financing. He's the one that volunteered the financing when I told him what I was getting ready to do.
Q. Because the loan was non-recourse, you had no reason or incentive to pay the loan unless you could make money on the sale of the property, right?

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A. Well, it was non-recourse, but the property was worth -- certainly worth the collateral.
Q. Now, did you have the financial wherewithal back in 1985 to purchase the entire property yourself?
A. Yes.
Q. Did you go to any banks to try to find out whether you could get a loan for the full purchase price of the entire thing, which would have been about $1.7 million?
A. No, it was $1.7 million.
Q. I know, $1.7 million. Did you ever try to see whether you could get a loan for $1.7 million?
A. I knew I could.
Q. From another bank?
A. Yes.
Q. Did you speak to any other banks about getting a loan for $1.7?
A. Yeah.
Q. Which banks did you speak to?
A. I don't know that this is germane, but I'll answer your question. Union Bank.
Q. And they were willing to give you a loan?
A. Why sure. I had good credit with them. I would have

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had no trouble financing a million or two million.
Q. Did you go to Madison because they offered better terms than --
A. No, I didn't go to Madison because they offered me better terms. I told you why I went to Madison.
Q. Were the terms identical that were being offered by both banks?
A. No, they weren't identical.
Q. Which terms were better?
A. I went to Madison because, as I told you, I was going to buy it all myself, but I wanted to run it by McDougal. And I'll reiterate what I told you previously. When I told him, he said, "Well, at that price, maybe we could share it." And I asked him what he had in mind. And he told me. He wanted the property south of 145th. And I told him, I said, "I'll arrange my own financing." He said, "That won't be necessary. Madison Guaranty will finance it for you." And then he said, "Because it's such a good deal we can make it to you non-recourse." That's what I've said. I've repeated this to you any number of times.
MR. COLE: One thing you haven't been

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asked, I think, Mr. Ward, is when Mr. McDougal offered to finance the property for you at Madison Guaranty, you would have paid Madison Guaranty under the terms of your note interest on that loan, correct?
A. Why certainly.
MR. COLE: So they would have made money on the loan that they made to you?
A. Why certainly. It's right there on the note.
MR. COLE: In fact, the note calls for some $143,356.17 of finance charges to be paid?
A. I was looking for the interest rate. (Witness viewing document.)
MR. COLE: I believe the interest rate is right there. If you can read that. It's upside down. I can't read it.
A. I only have one eye.
MR. COLE: I believe it says, "12.5 percent," does it not?
A. I think it does.
MR. COLE: So, on a million one loan, you would have paid 12.5 percent annual rate interest under this loan agreement you had with Madison Guaranty?

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A. That's right, sir.
Q. (BY MR. GIUFFRA) And was the other bank offering you the same rate interest or a higher interest rate?
A. I don't recall.
Q. What was the name of the other bank again?
A. Union.
Q. Now, when you settled the "Ward versus Madison" case with the RTC, you obtained a release from further liability for anything you might have done in connection with the IDC transaction; is that right?
A. That's correct.
Q. Was that an important part of the Settlement Agreement for you?
A. Well, no. When I paid them $330,000, I want to be sure they're not going to come to me for anymore. And they wanted to be sure I wasn't going to come to them for anymore. So that was it.
Q. Have you spoken to anyone from the Rose Law Firm since 1992 about the fact that the RTC is examining whether to bring a lawsuit against the Rose Law Firm for its involvement with the IDC transaction?
A. No. I didn't know they were.

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MR. GIUFFRA: I don't have any further questions. Thank you very much for your cooperation, sir.

EXAMINATION

BY MR. COLE:
Q. I just have a very few follow-up questions, Mr. Ward. And they go to some of the questions Mr. Giuffra was asking you a few moments ago about the financing and the terms of this original purchase of the IDC property. You testified to this previously. What was the original asking price for that property?
A. $3 1/2 million.
Q. And by the time you finished negotiating with IDC what was the final price?
A. $1.7.
Q. Was it worth that?
A. Yes, it was worth it. It was worth $3 1/2.
Q. And I believe you've also testified that you were prepared to buy all of it yourself if Madison Guaranty had not chosen to buy it?
A. That's correct.
Q. And the reason that you offered it to Madison Guaranty was because you had been working for them to find

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property at the time you first began to talk with IDC?
A. That's correct. I felt honor-bound to do it.
Q. And Mr. Giuffra also asked you some questions about your role in this transaction and the $35,000 option payment that Madison Guaranty paid to you. What did Madison Guaranty get in return for that option?
A. They had the right for 270 days to sell my portion of the property, excluding the Holman Acres.
Q. And if they sold portions of that property, excluding Holman Acres, who would get the profit under that option?
A. Madison.
Q. Madison would get the profit?
A. Yes.
Q. And do you recall what the total amount of the sales that Madison made on that was?
A. No, I don't.
Q. Let me show you a document that may refresh your recollection. It's numbered SEN 33176. It's a handwritten schedule of sales. Take a moment to look at that.
A. (Witness viewing document.) I see.
Q. Do you see the total of these sales of properties

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that's shown at the bottom, which is, in round numbers, $3.7 million?
A. Yes, sir.
Q. Is that consistent with your recollection of the amount of the properties that Madison sold from this IDC transaction under their agreement with you?
A. At least as much.
Q. And I take it, sir, if you take that $3.7 million in total sales and subtract the sales price of $1.75 million, you're left with roughly $2 million in profit; is that correct?
A. Yes, sir.
Q. And under your agreement with Madison, that's profit that Madison and Mr. McDougal was able to obtain, that had they not purchased the option from you and had you sold the property you would have had that profit; is that correct?
A. That's correct.
Q. And finally, the transactions that are listed there, and there are about a dozen of them including Fulbright, Jim Guy Tucker, Davis Fitzhugh, who negotiated those sales? Who arranged those sales of the property?

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A. As far as I know, McDougal did.
Q. Did you have anything to do with that?
A. No, sir.
Q. And did you have anything to do with setting the sales prices of those parcels?
A. No, sir. I did not.
Q. Did you have anything to do with setting the terms of the financing that Mr. McDougal provided to those buyers?
A. I knew nothing of it whatsoever.
Q. And so your only role was that you felt you were entitled to a 10 percent commission on those sales?
A. And the principal being applied to my note.
Q. And that was the dispute that you had with Madison in your lawsuit at a later time, as to whether you were entitled to the --
A. That's correct.
Q. So, if I'm understanding your testimony, Mr. Ward, when you sold Madison Guaranty the option on this property, the $35,000, you gave up the right to profits on the sales, but you retained the right to earn your commissions; is that correct?
A. Not entirely. The principal amount they sold it for

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would be applied to my note and then I get 10 percent commission.
Q. Right. You would get 10 percent commission on the sale.
Did you, when you initially entered into this agreement with Mr. McDougal, Mr. Ward, did you feel you were engaging in a shame or an illegal transaction?
A. No, I did not. I had no reason to think that.
Q. And --
A. If I had, I wouldn't have done it.
Q. And there have been some reports which, including in the hearings that we've been conducting in the Senate, that this IDC property ultimately caused losses to Madison Guaranty Savings and Loan of some $4 million. Did you play any part in the transactions that are described here that might have resulted in those loan losses?
A. No, sir. I did not.

MR. COLE: I don't think I have anything further.

EXAMINATION

BY MR. GIUFFRA:
Q. Just one quick set of questions. The $2 million

profit that Mr. Cole referred to, that was -- you don't know whether that's a real profit that was earned by Madison Guaranty, do you?
A. I don't know.
Q. Because if Madison Guaranty sold the properties to the various purchasers at inflated prices, and then fully financed those sales, they would not be real sales of property?
A. I wasn't involved in the sales or the sale price or how it was transacted.
Q. So you don't know whether the $2 million profit that Mr. Cole just referred to was an illusory profit?
A. I have no idea.
Q. You don't know whether that was --
A. Looking back from what I've read, in retrospect, I'd say that I assume the deals weren't on the up-and-up.
MR. GIUFFRA: No further questions, sir. Thank you very much.
MR. COLE: Nothing further.
(WHEREUPON, at 12:48 p.m., the taking of the above-entitled deposition was concluded.)
* * * * *

CERTIFICATE

STATE OF ARKANSAS}
}ss.
COUNTY OF WHITE }
RE: ORAL DEPOSITION OF SETH WARD:

I, JEFF BENNETT, CCR, LS #19, a Notary Public in and for White County, Arkansas do hereby certify that the facts stated by me in the caption of the foregoing deposition are true; and that the foregoing deposition was transcribed by me, or under my supervision, on the Cimarron III Computerized Transcription System from my machine shorthand notes taken at the time and place set out on the caption hereto, the witness being first duly cautioned and sworn, or affirmed, to tell the truth, the whole truth, and nothing but the truth.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 12th day of February, 1996.

JEFF BENNETT, CCR, LS Certificate #19, Notary Public in and for White County, Arkansas

My commission expires 11-29-2000.

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